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THE OFFICIAL MONTH IN REVIEW

March 1.—The President had an informal luncheon conference at Malacañan with some senators and representatives who took up with the Chief Executive matters affecting their respective constituents. Shortly before the President received the solons, a delegation of sugar planters of Pampanga called to apprise the President of the alleged worsening peace and order condition in Pampanga. The President told the planters that he would take up the matter of detailing a battalion combat team in Pampanga as per their request with Defense Secretary Ramon Magsaysay. The President said that the organization of the so-called "temporary police" or "private guards" is allowable provided that they are incorporated as regular members of the police force, and provided that funds could be raised to pay them their regular monthly salaries.

The President also ordered the deportation of four undesirable Chinese nationals on the first available transportation to China or Formosa, upon the recommendation of the Deportation Board following its finding that the Chinese lack papers and were guilty of the crimes of which they had been accused. Lee Sy and Kuan Fat were convicted of illegal possession of prohibited drugs; Antonio Chong Yee, of theft and robbery; and Sy Chut *alias* Benito Sy, of estafa.

March 2.—The President took off on the army plane *Pagasa* at 9:30 a.m. for Legaspi City on his six-day tour of the Bicol provinces. Included in the presidential party were some Cabinet members, a senator, and some representatives. On hand at the Legaspi airport to give the party a warm reception upon the President's arrival at 11:12 a.m. was a large crowd headed by Nacionalista Governor Manuel M. Calleja, Representative Lorenzo P. Ziga, Legaspi Mayor Marcial Rañola, and the mayors of all municipalities of Albay. From the airport the President was whisked in a motorcade to the city hall for cocktails offered by Mayor Rañola. The Chief Executive then conferred with city officials and inquired into pressing problems of the city administration.

At 4:00 o'clock in the afternoon, the President opened the national interscholastic athletic meet in the newly built Quirino Stadium before 100,000 people from all over the Philippines. In opening the meet, the President paid tribute to the character training of the Filipino people in knowing how to compete and in knowing how to lose. According to him, the Filipino fights with fortitude but he also knows how to accept defeat. The President appealed to the people "never to lose faith in the survival of this nation because it will live forever."

March 3.—After he had seen the devastation of the coconut industry by typhoons and by coconut pest called *Kadang-Kadang,* the President cabled Ambassador Carlos P. Romulo from Legaspi City, to make representations with the United States legislative and executive departments of the Federal Government reiterating Philippine request for the abolition of the coconut excise tax. The President instructed Romulo to see President Truman at the first opportunity and to express President Quirino's personal concern. The President said that the people of the Bicol region will be deprived of their coconut fruits in the next three years as a result of the typhoons.

The President spent his second day in Legaspi conferring with local officials, farmers, and businessmen on their problems regarding abaca and copra. Before noon, he motored to Tiwi and visited the sulphur springs and

the scenic spots at the foot of Mayon Volcano, with a view to turning them into tourists attractions. He also visited nearby towns including Tabaco, Bacacay, and Libog and inspected the copra and abaca industries. The Chief Executive spoke briefly at the town plaza of Tabaco where he was greeted with parades and brass bands. He motored back to Legaspi after dinner at Representatives Ziga's home.

March 4.—After an evening sea voyage from Legaspi aboard the yacht *Apo,* the presidential party landed on the coastal town of Bacon about 9:30 a.m. Thousands lined the streets where the President passed from the port town to Sorsogon. On arrival at Sorsogon, the Chief Executive went to the provincial high school grounds where he laid the marker for the new ₱850,000 high school building at the site of the former building burned by the Japanese during the war. The President authorized the release of ₱200,000 for the completion of the new building. The President conferred with provincial and municipal officials at the provincial capitol. In the afternoon, the President addressed a public meeting at the Plaza Bonifacio. In the evening, the presidential party boarded the presidential yacht at Bacon for a sea trip to Virac, Catanduanes.

Malacañan announced that the President had ordered the immediate suspension of Teofilo Cabrara as member of the Provincial Board of Pangasinan pending the final disposition of the criminal case of treason filed against him at the Court of First Instance of Surigao.

March 5.—The presidential party arrived in Virac at 9:30 a.m., two hours behind schedule owing to heavy rain and rough sea. It was still raining when the President landed at Virac, but the people of the province turned out *en masse* to welcome him. The President proceeded to the high school after hearing a *Te Deum* in the church, and delivered a speech wherein he appealed for unity among the people in pushing the government program of public improvement.

Immediately upon learning of the election of Senator Quintin Paredes as President of the Senate, the Chief Executive sent his congratulation to Senator Paredes, saying, " . . . you can now clear the deck for important legislation." The President likewise congratulated Nacionalista Senator Felixberto M. Verano for his "patriotic stand in breaking the Senate deadlock."

March 6.—Malacañan announced that the President had issued a directive to all provincial governors and city mayors giving priority to the payment of accumulated vacation and sick leaves of government officers, employees, and laborers who resign or are separated from the service, against the claims for salaries of new employees appointed to these vacated positions. The directive which was embodied in an unnumbered circular warned that a violation of the order will be dealt with administratively.

March 7.—The President returned to Manila in the evening after a six-day fruitful tour of the Bicol region. In his tour, the Chief Executive gathered data necessary in the preparation of a national program of action in the execution of the Government's program of economic development. He also carried to the provinces his campaign for unity and solidification in order to make the country strong in the face of threats from the Communists.

March 8.—The President received at Malacañan a delegation of coconut producers and informed them of his desire to meet all members of the Philippine Coconut Planters Association during their convention in Manila that week.

The President also conferred with Secretary of Commerce Cornelio Balmaceda on the proposed Philippine International Fair tentatively scheduled to be held for three months from May 1 to July 31, 1953, at the Wallace Field. As originally planned, a ₱6-million corporation will be organized to manage and operate the 1953 fair and take charge of the other world fairs to be held periodically in Manila. The capitalization is

divided into 60,000 shares at the par value of ₱100 a share. Being a national and community enterprise, the government is to give to it its whole backing and support.

March 10.—Malacañan announced that the President had signed the nomination of Alejo Labrador, presiding justice of the Court of Appeals to the Supreme Court. The nomination was forwarded immediately to the Commission on Appointments.

The President also authorized Philippine participation in the 14th and 15th sessions of the Economic and Social Council (ECOSOC) scheduled to commence in New York City on March 24 and May 13, 1952. The President designated Ambassador Carlos P. Romulo as Philippine representative and Salvador P. Lopez, Jose D. Ingles, Mauro Mendez, Narciso Reyes, and Adriano Garcia as alternates.

March 11.—During a cabinet meeting aboard the presidential yatch *Apo*, the President directed National Defense Secretary Ramon Magsaysay to resume his inspection of the various camps of the Armed Forces and the different battalion combat teams in the Philippines with a view to further intensify the peace and order campaign.

The Cabinet decided to mobilize the country for increased food production in the face of the unsettled world conditions. The Cabinet also approved to intensify the campaign against Communism, and to revive the Mobilization Bill which provides for preparedness in the event of war. The Cabinet, furthermore, decided to accelerate the settlement of public lands to attract the landless to settle in Mindanao and other sparsely populated places, and to bolster the economic development of the country.

March 12.—Executive Order No. 494 issued by the President sets the daily working time for government offices from April 1 to June 15, from 8 a.m. to 1 p.m. without interruption, at the discretion of the heads of the departments, subject to the requirements of the service. The presidential order does not apply to government employees in Baguio whether national, provincial, or municipal.

On the recommendation of the Secretary of Finance, the President also issued Proclamation No. 305, publishing the latest values of five foreign currencies for purposes of assessment and collection of customs duties.

Moreover, the President created an Organization Committee to form the corporation which will be known as the Philippine International Fair, Inc., envisaged as a permanent institution which will take charge of the 1953 Philippine Exposition and other world fairs which will be held in Manila from time to time. Commerce Secretary Balmaceda was named as chairman of the committee and Antonio de las Alas, Jose P. Marcelo, J. L. Manning, Sy En, Alfonso Sy Cip, Wilfrid Wooding, Enrique Pfitz, Hashoomed Gianchand, Joaquin V. Gonzales, Ramon del Rosario, Vicente Faelnar, M. J. Gonzales, and Modesto Farolan, members.

Malacañan announced that Ambassador Carlos P. Romulo had cabled from Washington to President Quirino that the American government has finally approved the priority rating for materials and equipment needed by the power project at Maria Cristina and the pyrite plant, both in Lanao. Out of this grant of priority, the Philippines would be able to complete its power plant at Maria Cristina and the pyrite plant according to schedule.

The President signed the first bill enacted during the current session of Congress, to be known as Republic Act No. 674, which entitles sanitary division employees to enjoy both vacation and sick leave privileges that can be accumulated provided the total does not exceed five months, thus placing them on equal footing with other government employees with civil service eligibilities.

March 14.—After consultation with his Cabinet, the President signed Senate Bill No. 250 entitled "An Act to Fix the Salaries of Physicians under the Department of Health," and vetoed two bills. The vetoed bills

The President submitted to the Commission on Appointments for confirmation the nominations of Salvador Araneta, formerly Economic Coordination Administrator, as member of the National Economic Council, and of Emiliano Morabe, as chief of the Wage Administration Service.

The President received Edgar M. Elbert, visiting first vice president of the Lion's International, who presented him with a Parker pen desk set with the inscription, "Lionism honors President Quirino." The gift was donated by the Lion's 455,000 members from 36 countries as a token of their recognition of the Philippine Chief Executive as one of the foremost champions of democracy in the world. In presenting the gift Mr. Elbert said, "You may not know it, Mr. President, but your fight against communism has won the admiration of peoples outside the boundaries of your country, particularly those of us who love freedom and democracy."

March 20.—The President recommended to Congress the amendment of Republic Act No. 357 so as to authorize the National Power Corporation to contract loans not only from the International Bank for Reconstruction and Development but also from the Export-Import Bank of Washington and other international lending institutions. Under the present law, the NPC could contract loans not to exceed $50 million from the IBRD only. The President considers this limitation as a serious handicap as the NPC is now in urgent need of loans beyond what the IBRD can actually grant.

The President also certified to Congress the necessity of immediately enacting H.B. No. 793 entitled: "An Act transferring the custody of the funds for the retirement of bonds issued by the Government, including provinces, cities, and municipalities, and the function of investing the same from the Bureau of the Treasury to the Central Bank of the Philippines by amending Act No. 3014." The bill says that as fiscal agent of the Government, the Central Bank should also perform the work of investing the sinking funds.

The President conferred with officials of the Philippine-American Life Insurance Company and the People's Homesite and Housing Corporation on the former's proposal to develop housing projects for moderate-income families in Quezon City. The insurance company informed the President that it was ready to go into a big scale housing projects for families in the low-income bracket, not only in Manila but also in Baguio, Iloilo, Cebu, Tacloban, Davao, and other cities. The Company, however, wants to start with the housing project in Quezon City on the property owned by the People's Homesite and Housing Corporation. The meeting was a preliminary discussion on the insurance company's proposal to buy lands belonging to the PHHC with a view of erecting houses which the company would sell on 20-year installment plans to moderate-income families. The President said that he would study the proposal further after hearing from the board of directors of the PHHC.

During a conference with Acting Executive Secretary Marciano Roque over routine matters, the President signed the appointments of Education Undersecretary Cecilio Putong, U. P. President Vidal A. Tan, Teodoro Evangelista, Jorge Bocobo, and Mrs. Francisco Tirona-Benitez as members of the board of directors of the U. S. Educational Foundation in the Philippines for another term expiring on December 31, 1952. The President also reappointed Jaime C. de Veyra and Severino Fernandez as members of the Philippine Historical Committee for another term of three years expiring on January 20, 1955.

March 21.—Malacañan announced the approval by the President of House Bill No. 267, appropriating ₱100,000 for the rehabilitation and maintenance of the Aborlan Agricultural High School in Palawan. The law which becomes Republic Act No. 676, in effect converts the Aborlan High school into a national agricultural secondary institution similar to those created in various provinces.

The President motored to the Manila International Airport at 3:30 p.m. to meet Speaker Eugenio Perez who arrived by plane from the United

States. "Welcome home, Mr. Speaker; I am glad to see you in good health," the President said as he embraced Speaker Perez.

The President administered the oath of office to members of the newly created Food Commission at the Council of State room. Inducted were Secretary of Health Juan Salcedo, Jr., chairman; Undersecretary of Commerce and Industry Saturnino Mendinueto, National Food Production Manager Francisco Marquez, Aurelio Intertas, representing the consuming public, and Dulce L. Bocobo, representing the Institute of Nutrition, as members. Miss Bocobo will also act as executive secretary of the commission. The Food Commission shall be charged with the formulation of a food and nutrition policy for the country and the coordination of all governmental activities necessary to implement this policy.

March 22.—In a press interview on board the presidential train enroute to San Fernando, La Union, the President said that the Government would carry out its plan to extend the railroad line up to Echague, Isabela. He said that the rail extension to Echague is necessary because no more ships call at the port of Aparri in Cagayan. This makes the transport of products such as tobacco, logs, and peanuts from the Cagayan Valley very costly, he pointed out. The President disclosed that Congress had already authorized the contracting of a ₱45-million loan for the project.

After laying the cornerstone of the fourth cement plant in the Philippines at the Canaoay site in San Fernando, La Union, the President said the Government had started the aggressive industrialization of Northern Luzon with the laying of the marble cornerstone of the cement plant that afternoon. Upon arrival at San Fernando on board the presidential train at 12:30 p.m., the President proceeded directly to the cement plant site for the ceremony. The President made a brief stop at Dagupan City about 11 a.m. to visit the scene of the recent big fire in that city.

March 24.—The President authorized the release of ₱7,323,000 to cover the peso requirements of the Ambuklao hydro-electric power project in Central Luzon. This release will be taken from the ₱15 million appropriation for productive and income-producing projects. Completion of the Ambuklao project will provide cheap electric power to Northern and Central Luzon provinces, and to the steel mill being constructed in Mariveles.

Defense Secretary Ramon Magsaysay had a three-hour conference with the President at the Philippine Navy rest house on Poro, San Fernando, to report to the Chief Executive on his "fruitful" conversation with U. S. Navy Secretary Dan Kimball on the matter of closer cooperation and coordination between the Philippine armed forces and the United States Navy, and the aid which our forces might receive from the U. S. Navy.

The President signed a proclamation declaring Wednesday, April 9, 1952, as Bataan Day. Upon signing the proclamation, the President remarked: "This is the first document signed at the Key West of the Philippines." The document was signed on the lawn of the Philippine Navy rest house, otherwise known as the Key West of the Philippines. April 9, 1952, marks the 10th anniversary of the fall of Bataan.

March 25.—The President issued Executive Order No. 496, fixing the ceiling prices of certain brands of imported ground coffee and canned fish. New ceiling prices were fixed for *Santa Fe* and *Chase and Sanborn* coffee and salmon to include the 17 per cent special tax on foreign exchange, plus the 7 per cent and 1 per cent municipal taxes.

By authority of the President, Executive Secretary Marciano Roque released ₱33,065 to the Bureau of Animal Industry for the purchase of feeds for cattle in the government's stock farms in Alabang and other places. The President ordered the release in line with his policy of promoting cattle breeding to improve the local stock and replace cattle losses sustained by the country during the Japanese occupation. The President also authorized the relase of ₱6,020 for the purchase of additional milk bottles to enable

the Bureau of Animal Industry to meet the increasing demand for milk produced at its dairy farms.

March 26.—In his speech delivered during the inauguration of the Philippine-American Insurance Company housing project in Baguio, the President called upon private enterprise to help in the fight against communism by playing an active role in the social amelioration program of the government. The Chief Executive said that the greatest objective of his administration is to raise the standard of living of the poor people. He cited the newly inaugurated housing project as an example of private enterprise participating in government effort to stamp out communism by promoting the social welfare of the masses.

March 27.—In his speech as guest of honor at the 4th national congress of the Philippine Junior Chamber of Commerce at Baguio City auditorium, the President sounded a call for preparedness, military and economic, in the face of world developments which have prompted all nations to prepare. He expressed confidence that the Jaycees, being a non-partisan organization, would back him up in the national effort to intensify the development of our economic resources.

The President announced in a press conference at the Guest House in the evening that the constabulary will replace the marines in Negros Occidental as the latter will be assigned to combat duties. Explaining his decision to have the marines replaced by the constabulary, the President said that the constabulary soldiers are really the ones in charge of the maintenance of peace and order.

March 28.—The President arrived at the Manila International Airport at 10:20 a.m. aboard the PAF plane *Pagasa*, following his six-day sojourn in San Fernando, La Union, and Baguio City.

At exactly 11 a.m., Mrs. Eleanor Roosevelt accompanied by U. S. Ambassador Raymond A. Spruance called at the President in Malacañan. The President asked Mrs. Roosevelt to sit in the presidential chair at his desk in his Palace study, and requested her to autograph two books from his library shelf, entitled *Franklin D. Roosevelt's Own Story* and *This I Remember*. The latter was written by Mrs. Roosevelt.

At the luncheon he gave in Malacañan in honor of Mrs. Roosevelt that noon, the President said that Mrs. Eleanor Roosevelt's presence in the Philippines has rekindled the Filipinos enthusiasm and given the Philippines hopes to work for the preservation of national unity which the famed lady and her husband "helped to build." In her response, Mrs. Roosevelt expressed her appreciation of the existing feeling of friendship between the Philippines and the United States and of the fact that "together we can cooperate in the great world family of nations to help preserve the peace of the world." The luncheon was attended by members of the Cabinet, members of the diplomatic corps and their ladies, and prominent women leaders. (See *Historical Papers and Documents,* pp. 986-988, for full text of the message.)

In the evening, the President inducted Col. Victor H. Dizon as Acting Civil Aeronautics Administrator. After the induction ceremonies, the President told Col. Dizon that the request of Cebu Governor Sergio Osmeña, Jr. that the Cebu strip be transferred to the spacious island adjacent to the city cannot be granted at present in view of the lack of enough funds to effect the transfer. Transfer of the Cebu airport to the nearby island would cost about ₱6½ million, as it would necessitate the contsruction of a bridge over the seaway between Opon Island and the Cebu mainland.

March 29.—Malacañan announced the nomination of Luis Manalang as director of the Placement Bureau, Department of Labor. This new bureau is in charge of locating employment for people seeking for work. Mrs. Trinidad de Leon Roxas, was nominated member of the Board of Review for Motion Pictures. Both nominations were sent to the Commission on Appointments for confirmation.

The President told a delegation of about 500 tenants living in the area of the proposed Harrison Park who called at Malacañan that they were squatting on a national government property and that they should move out to the government housing site in Bago Bantay. The Chief Executive told a 15-man vanguard of the delegation of tenants that they were living in a "very dangerous place." He asked the tenants to apply for the homes being constructed in Bago Bantay.

March 30.—After an informal conference in San Fernando, La Union, with Major General Calixto Duque, Chief of Staff of the AFP, and Captain Jose M. Francisco , Chief of the Philippine Navy, the President decided to send the marines who have been replaced in Negros Occidental to the southern islands to curb smuggling in that region. The President arrived at the San Fernando airport aboard the army plane *Pagasa* at 10:20 a.m. after an hour's flight from Manila.

Immediately after receiving news of the fatal Philippine Air Lines plane crash in Baguio wherein Jaycees had figured, the President ordered his aide to get details of the fatal accident. The President expressed profound sorrow over the accident.

March 31.—The President was awarded a gold medal by the National Federation of Women's Club in token of his "profound and lasting appreciation" for the children and women of the Philippines. The presentation of the award took place at the Malacañan ceremonial hall before some 300 women delegates to the 12th biennial convention and 31st anniversary of the NFWC. After the ceremony, the President was host at a tea party for the women conventionists.

In an informal talk with reporters in the evening after the tea he gave in honor of the delegates to the women's convention, the Chief Executive said that it is the prerogative of Congress to go over the budget. He said he was not averse to the idea of Congress pruning the budget "if they can intelligently reduce it." The President also justified his appointment of Minister Emilio Abello as presiding justice of the Court of Appeals, saying that "we are wasting talent" with the stay of Abello in the Philppine Consulate in New York. The President cited precedents from America and the Philippine judicial history to justify his appointment of Abello.

The President ordered the suspension of Mayor Santiago Ortega and five policemen of Iriga, Camarines Sur, accused by the provincial fiscal of taking advantage of their positions and using force and violence to compel private citizens to leave and vacate their house. The suspension order was issued in accordance with the standing policy of the administration of suspending any local elective official accused in court for offense involving moral turpitude.

The President received a preliminary report on the fatal Baguio air crash from Col. Victor H. Dizon, Acting Civil Aeronautics Administrator.

EXECUTIVE ORDERS, PROCLAMATIONS AND ADMINISTRATIVE ORDERS

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 494

FIXING OFFICE HOURS DURING THE HOT SEASON

Pursuant to the provisions of section 564 of the Revised Administrative Code, the office hours of all government bureaus and offices, including the provincial, city and municipal governments, during the period from April 1 to June 15, 1952, both dates inclusive, are hereby reduced to five continuous hours which shall be from eight o'clock in the morning to one o'clock in the afternoon. The provisions of this Order shall not apply to the offices in the City of Baguio, whether national, provincial or municipal.

This Order shall not oblige the head of any department, bureau, or office to reduce as herein provided the office hours in his department, bureau, or office, but leaves the same in his discretion subject to the requirements of the service.

Done in the City of Manila, this 11th day of March, in the year of Our Lord, nineteen hundred and fifty-two and of the Independence of the Philippines, the sixth.

ELPIDIO QUIRINO
President of the Philippines

By the President:

MARCIANO ROQUE
Acting Executive Secretary

MALACAÑAN PALACE
MANILA

BY THE PESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 495

TERMINATING THE COLLECTION OF TOLLS AT THE MAKATO BRIDGE, CAPIZ

The total cost of the Makato Bridge in the Province of Capiz, plus interest thereon at the rate of four per cent per annum, having been fully recovered, as certified in accordance with the provisions of Act No. 3500, as amended,

it is hereby ordered that the collection of tolls at the Makato Bridge be terminated.

This Order shall take effect upon receipt of copy hereof by the Provincial Treasurer of Capiz.

Done in the City of Manila, this 20th day of March, in the year of Our Lord, nineteen hundred and fifty-two, and of the Independence of the Philippines, the sixth.

ELPIDIO QUIRINO
President of the Philippines

By the President:

MARCIANO ROQUE
Acting Executive Secretary

MALACAÑAN PALACE
MANILA

BY THE PESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 496

FIXING THE CEILING PRICES OF COMMODITIES

By virtue of the powers vested in me by section 3 of Republic Act No. 509, entitled "An Act declaring national policy, authorizing the President of the Philippines for a limited period to fix ceiling prices of commodities and to promulgate rules and regulations regarding prices of commodities to effectuate such policy, and authorizing the appropriation of a certain sum for the purpose," and upon the recommendation of the Price Administration Board, I, Elpidio Quirino, President of the Philippines, do hereby order:

SECTION 1. The following essential commodities shall not be sold at more than the maximum selling prices for importers, wholesalers and retailers set opposite each:

FOODSTUFF (IMPORTED)

WITH 17 PER CENT SPECIAL EXCISE TAX ON FOREIGN EXCHANGE

Commodity	Unit	Importer's price	Wholeseller's price	Retailer's Price
Beverages:				
Roasted Coffee, Ground Brand:				
Santa Fe	36/1#	₱94.20	₱102.75	₱3.20
Chase & Sanborn	24/1#	66.72	72.78	3.41

WITHOUT 17 PER CENG SPECIAL EXCISE TAX ON FOREIGN EXCHANGE

Canned Fish:				
Salmon				
Palmdale Medium	48/7-3/4			
(USA) Red Salmon	oz.	51.10	55.75	1.30

SEC. 2. The ceiling prices fixed in this Order include for salmon the 7 per cent sales tax and 1 per cent municipal tax and for roasted ground coffee the 17 per cent special excise tax on foreign exchange, 7 per cent sales tax and 1 per cent municipal tax.

SEC. 3. This Order shall take effect immediately.

Done in the City of Manila, this 21st day of March, in the year of Our Lord, nineteen hundred and fifty-two, and of the Independence of the Philippines, the sixth.

ELPIDIO QUIRINO
President of the Philippines

By the President:

MARCIANO ROQUE
Acting Executive Secretary

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 305

AMENDING PROCLAMATION NO. 134, DATED JULY 19, 1949, AS AMENDED BY PROCLAMATION NO. 151, DATED OCTOBER 15, 1949, PROCLAMATION NO. 199, DATED AUGUST 4, 1950, AND PROCLAMATION NO. 304, DATED JANUARY 29, 1952, BY PUBLISHING THE LATEST VALUES OF CERTAIN FOREIGN CURRENCIES FOR PURPOSES OF THE ASSESSMENT AND COLLECTION OF CUSTOMS DUTIES.

Pursuant to the authority vested in me by Republic Act No. 77 and upon the recommendation of the Secretary of Finance, I hereby amend Proclamation No. 134, dated July 19, 1949, as amended by Proclamation No. 151, dated October 15, 1949, Proclamation No. 199, dated August 4, 1950, and Proclamation No. 304, dated January 29, 1952, by publishing the latest values of certain foreign currencies for purposes of the assessment and collection of customs duties, as follows:

Country	Unit	Equivalent in U. S. currency	Equivalent in Philippine currency
1. Colombia	Peso	$0.513	₱1.026
2. Hongkong	Dollar	.174	.348
3. Nicaragua	Cordoba	.200	.400
4. Panama	Balboa	1.000	2.000
5. Poland	Zloty	.250	.500

In witness whereof, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 11th day of March, in the year of Our Lord, nineteen hundred and fifty-two, and of the Independence of the Philippines, the sixth.

[SEAL] ELPIDIO QUIRINO
President of the Philippines

By the President:

MARCIANO ROQUE
Acting Executive Secretary

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 306

EXTENDING UP TO AND INCLUDING APRIL 15, 1952, THE PERIOD FIXED IN PROCLAMATION NO. 303, DATED JANUARY 14, 1952, FOR THE FIFTH ANNUAL FUND CAMPAIGN OF THE PHILIPPINE NATIONAL RED CROSS.

WHEREAS, the period from February 15 to March 14, 1952, was designated under Proclamation No. 303, dated January 14, 1952, for the Fifth Annual Fund Campaign of the Philippine National Red Cross; and

WHEREAS, it appears that the Philippine National Red Cross needs additional time to carry out its campaign successfully;

NOW, THEREFORE, I, Elpidio Quirino, President of the Philippines, do hereby extend up to and including April 15, 1952, the period designated under Proclamation No. 303, dated January 14, 1952, for the Fifth Annual Fund Campaign of the Philippine National Red Cross.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 14th day of March, in the year of Our Lord, nineteen hundred and fifty-two, and of the Independence of the Philippines, the sixth.

[SEAL] ELPIDIO QUIRINO
President of the Philippines

By the President:

MARCIANO ROQUE
Acting Executive Secretary

MALACAÑAN PALACE
MANILA

BY THE PESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 307

DECLARING WEDNESDAY, APRIL NINTH, NINETEEN HUNDRED AND FIFTY-TWO, AS BATAAN DAY

WHEREAS, the ninth day of April, nineteen hundred and fifty-two, marks the tenth anniversary of the Fall of Bataan;

WHEREAS, the Fall of Bataan has served to seal in blood the permanent ties of friendship and cooperation between the Philippines and the United States; and

WHEREAS, the commemoration of the Fall of Bataan is a fitting homage to the heroism of Filipino and American forces who fought side by side for freedom and is a reminder to Filipinos and Americans alike of their common democratic heritage;

NOW, THEREFORE, I, Elpidio Quirino, President of the Philippines, by virtue of the authority vested in me by law, do hereby declare and proclaim Wednesday, April the ninth, nineteen hundred and fifty-two, as Bataan Day. I call upon all provincial governors, city mayors, all other public officials and citizens of the Republic of the Philippines, as well as all American nationals residing in the Philippines, to observe Bataan Day with the most appropriate ceremonies and programs expressive of the bonds of friendship that bind the Philippines and the United States and as a solemn recognition of the sacrifices of the heroic defenders of Bataan.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in San Fernando, La Union, for the City of Manila, this 24th day of March, in the year of Our Lord, nineteen hundred and fifty-two, and of the Independence of the Philippines, the sixth.

[SEAL]

ELPIDIO QUIRINO
President of the Philippines

By the President:

MARCIANO ROQUE
Acting Executive Secretary

REPUBLIC ACTS

Enacted during the Second Congress of the Republic of the Philippines Third Session, 1952

S. No. 109

[REPUBLIC ACT NO. 674]

AN ACT TO REPEAL SECTION TEN HUNDRED AND SEVENTEEN AND TO FURTHER AMEND SECTIONS TWO HUNDRED AND EIGHTY-FOUR AND TWO HUNDRED AND EIGHTY-FIVE-A AS AMENDED BY REPUBLIC ACT NUMBERED TWO HUNDRED AND EIGHTEEN, OF THE REVISED ADMINISTRATIVE CODE SO AS TO INCLUDE AMONG THE BENEFICIARIES THEREOF THE EMPLOYEES OF SANITARY DIVISIONS.

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section ten hundred and seventeen of the Revised Administrative Code is hereby repealed.

SEC. 2. Section two hundred and eighty-four and section two hundred and eighty-five-A of the Revised Administrative Code, as amended by Republic Act Numbered Two hundred and eighteen, are hereby further amended to read as follows:

"SEC. 284. After at least six months' continuous, faithful and satisfactory service, the President or proper head of department, or the chief of office in the case of municipal employees may, in his discretion, grant to an employee or laborer, including employees of sanitary divisions mentioned in section ten hundred and seventeen hereof, whether permanent or temporary, of the National Government, the provincial government, the government of a chartered city, of a municipality, of a municipal district or of government-owned or controlled corporations other than those mentioned in sections two hundred sixty-eight, two hundred seventy-one, and two hundred seventy-four hereof, fifteen day's vacation leave of absence with full pay, inclusive of Sundays and holidays, for each calendar year of service."

"SEC. 285-A. In addition to the vacation leave provided in the two preceding sections each employee or laborer, including employees of sanitary divisions mentioned in section ten hundred and seventeen hereof, whether permanent or temporary, of the National Government, the provincial government, the government of a chartered city, of a municipality or municipal district in any regularly and specially organized province, other than those men-

tioned in sections two hundred sixty-eight, two hundred seventy-one, and two hundred seventy-four hereof, shall be entitled to fifteen days of sick leave for each year of service with full pay, inclusive of Sundays and holidays: *Provided,* That such sick leave will be granted by the President, Head of Department or independent office concerned, or the chief of office in case of municipal employees, only on account of sickness on the part of the employee or laborer concerned or of any member of his immediate family."

SEC. 3. This Act shall take effect as of January first, nineteen hundred and fifty.

Approved, March 12, 1952.

S. No. 250

[REPUBLIC ACT NO. 675]

AN ACT TO FIX THE SALARIES OF PHYSICIANS UNDER THE DEPARTMENT OF HEALTH

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The annual salaries of physicians under the Department of Health shall be as hereinbelow fixed:

OFFICE OF THE SECRETARY

Chief of division	₱6,000.00
Medical assistant	6,000.00
Department inspector	6,000.00
Chief of section	5,100.00
Senior specialist	4,800.00
Junior specialist	4,500.00

BUREAU OF HEALTH

Chief of division	6,000.00
Senior health inspector	6,000.00
Junior health inspector	5,400.00
Chief of section	5,100.00

Health Districts

District health officer, first class A province	6,600.00
District health officer, first class B province	6,300.00
District health officer, first class C province	6,000.00
District health officer, second class province	5,700.00
District health officer, third class province	5,100.00
District health officer, fourth class province	4,800.00
District health officer, fifth class province	4,200.00
Assistant district health officer	3,720.00
President of sanitary division	3,120.00

SCHOOL MEDICAL AND DENTAL SERVICES

Medical Section

Chief of section		5,100.00
Medical supervisor	₱3,720.00	4,500.00

Clinic physician	2,760.00	3,480.00
Radiologist	2,760.00	3,460.00
Training center physician	2,760.00	3,460.00

BUREAU OF HOSPITALS

Chief of division	6,000.00
Senior hospital inspector	6,000.00
Senior medical supervisor	6,000.00
Senior leprologist or senior clinical specialist	6,000.00
Junior hospital inspector	5,400.00
Junior medical supervisor	5,400.00
Junior leprologist or junior clinical specialist	5,400.00
Chief of section	5,100.00

National, Provincial, and City Hospitals

Chief of hospital	4,800.00	6,000.00
Senior resident physician and/or equivalent	3,720.00	4,500.00
Junior resident physician and/or equivalent	2,760.00	3,480.00

Other Hospitals of Lesser Category

Chief of hospital	3,720.00	4,500.00
Resident physician and/or equivalent	2,760.00	3,480.00

PUBLIC HEALTH RESEARCH LABORATORIES

Chief of division	6,000.00
Chief researcher	6,000.00
Chief specialist	6,000.00
Chief of section or laboratory inspector	5,100.00
Associate researcher	5,100.00
Associate specialist	5,100.00
Assistant researcher	4,500.00
Assistant specialist	4,500.00
Assistant laboratorian	4,500.00

INSTITUTE OF NUTRITION

Chief of division	6,000.00
Chief biochemist	6,000.00
Chief biometrist	6,000.00
Chief medical nutritionist	6,000.00

SEC. 2. If a hospital is departmentalized, the chief of each of the clinical departments, working on half time basis, shall receive a salary not more than fifty *per cent* of his salary if working on full time basis.

SEC. 3. No chief of hospital, or president of sanitary division, shall receive salary less than that of charity clinic physician in the same locality.

SEC. 4. All laws, acts, or parts thereof, inconsistent with the provisions of this Act, are hereby repealed.

SEC. 5. This Act shall take effect upon its approval.

Approved, March 14, 1952.

H. No. 267

[REPUBLIC ACT NO. 676]

AN ACT AUTHORIZING THE APPROPRIATION OF THE SUM OF ONE HUNDRED THOUSAND PESOS FOR THE REHABILITATION AND MAINTENANCE OF THE ABORLAN AGRICULTURAL HIGH SCHOOL IN THE PROVINCE OF PALAWAN.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of one hundred thousand pesos, or so much thereof as may be necessary, is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated which shall be expended by the Director of Public Schools for the rehabilitation and maintenance of the Aborlan Agricultural High School in the Province of Palawan for the school year 1952–1953. Thereafter, the necessary funds for the operation and maintenance of said school annually shall be included in the Annual General Appropriation Acts.

SEC. 2. This Act shall take effect upon its approval.

Approved, March 20, 1952.

RESOLUTIONS OF CONGRESS

Adopted during the Second Congress of the Republic of the Philippines Third Session, 1952

S. Ct. R. No. 27

[CONCURRENT RESOLUTION No. 29]

CONCURRENT RESOLUTION AUTHORIZING THE APPOINTMENT OF A JOINT COMMITTEE OF BOTH HOUSES TO NOTIFY HIS EXCELLENCY, THE PRESIDENT OF THE PHILIPPINES THAT THE CONGRESS IS NOW IN SESSION AND IS READY TO RECEIVE HIS MESSAGE.

Resolved by the Senate, the House of Representatives of the Philippines concurring, To authorize, as it hereby authorizes, the appointment of a joint committee of both Houses of the Congress to be composed of six members, three on the part of the Senate, and three on the part of the House of Representatives, to notify His Excellency, the President of the Philippines, that the Congress is now convened in regular session and is ready to receive any such communication as the Chief Executive may deem fit to send.

Adopted, January 28, 1952.

H. Ct. R. No. 88

[CONCURRENT RESOLUTION No. 30]

CONCURRENT RESOLUTION PROVIDING THAT THE SENATE AND THE HOUSE OF REPRESENTATIVES HOLD A JOINT SESSION TO HEAR THE MESSAGE OF THE PRESIDENT OF THE PHILIPPINES.

Resolved by the House of Representatives of the Philippines, the Senate concurring, That both Houses of the Congress of the Philippines hold a joint session on January 28, 1952 at five o'clock in the afternoon in the Session Hall of the House of Representatives, to hear the message of the President of the Philippines.

Adopted, January 28, 1952.

S. Ct. R. No. 29

[CONCURRENT RESOLUTION No. 31]

CONCURRENT RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS OF THE PHILIPPINES THAT, IN THE NATIONAL INTEREST AND IN KEEPING WITH THE DECLARED NA-

TIONAL POLICY ON SUGAR, THE EXPORTATION OF SUGAR TO COUNTRIES OTHER THAN THE UNITED STATES OF AMERICA SHOULD NOT BE ALLOWED UNTIL THE NATIONAL QUOTAS FOR DOMESTIC CONSUMPTION AND FOR THE AMERICAN MARKET ARE FILLED AS PROVIDED HEREUNDER.

WHEREAS, in enacting the Sugar Limitation Law, the Philippine Legislature declared it to be the national policy "to limit the production of sugar cane and sugar in the Philippine Islands to such an amount as would be sufficient to cover the quota allotted to the Philippine Islands under the United States laws and the needs of local consumption, plus such reserves as may be determined from time to time in accordance with the provisions of this Act;"

WHEREAS, in pursuance of this policy, the said Sugar Limitation Law, as variously amended, has classified sugar produced in the Philippines as follows:

(1) "A Sugar" shall consist only of such centrifugal sugar as may be manufactured in the Philippine Islands from sugar cane grown in the Philippine Islands which is permitted to be transported to, processed in, or marketed in Continental United States.

(2) "AA Sugar" shall consist only of such centrifugal sugar as may be manufactured in the Philippine Islands from "A Sugar" which is permitted to be transported to, processed in, or marketed in Continental United States.

(3) "B Sugar" shall consist only of such centrifugal sugar as may be manufactured in the Philippine Islands from sugar cane grown in the Philippine Islands, for consumption within the Philippine Islands, whether in its original form or not.

(4) "C Sugar" shall consist only of such centrifugal sugar as may be manufactured in the Philippine Islands to be held as an emergency reserve to make up any deficiency in "A Sugar" or "B Sugar" or for marketing elsewhere than in Continental United States or the Philippine Islands.

WHEREAS, since the liberation of the Philippines, and due to the ravages of war in sugar plantations and sugar mills, the Philippines has been unable to fill its quotas in the American market;

WHEREAS, recent typhoons in important sugar-producing regions of the Philippines make it unlikely that these national quotas both for the American market and for domestic consumption will be filled in the immediate future;

WHEREAS, the export of sugar to the American market with the tariff preferences granted under American laws

and present trade agreements to Philippine quota sugar is one of the most important sources of dollar exchange for this country, and an indispensable element in the promotion and maintenance of economic stability and prosperity;

WHEREAS, the failure of the Philippines to fill the national sugar quota for the American market will open the way for the reduction of such quotas to the consequent detriment of the national interest, particularly in the course of any revision of Philippine trade agreements with the United States, such as that at present contemplated;

WHEREAS, sugar is a prime commodity in the Philippines, and its price in the domestic market could and should be further reduced, in the national interest, to relieve the people from the high cost of living, and for such reductions it is imperative that the domestic quota should be filled, if not substantially increased; and

WHEREAS, the Philippine Sugar Administrator has nevertheless issued Philippine Sugar Orders Nos. 3 and 5 allowing the export of sugar to countries other than the United States from sugar produced by individual planters and mills if the individual, rather than the national, quotas of said planters and mills are filled, as well as from sugar produced by non-quota planters and from non-status sugar, which has been further defined in Philippine Sugar Order No. 4 issued by the same Philippine Sugar Administrator; Now therefore, be it

Resolved by the Senate, the House of Representatives of the Philippines concurring; That it is the sense of the Congress of the Philippines:

1. That the price of sugar in the domestic market should be stabilized at a low level through increased distribution and availability, sugar being a prime commodity for the people of the Philippines;

2. That in keeping with the national policy on sugar as declared in Act Numbered Forty-one hundred and sixty-six, as amended, every precaution should be taken not to give ground for the impairment or diminution of the trade and tariff preferences enjoyed by the Philippines in the American market;

3. That the national quota for domestic consumption must first be filled, and then the national quota for the American market should next be filled as long as Philippine sugar can be exported to said market profitably, before the export of sugar is allowed to countries other than the United States;

4. That sugar produced in excess of individual quotas for domestic consumption and for the American market must be held in reserve, together with sugar produced by non-quota planters and sugar classified as non-status, until the national quotas for domestic consumption and for the American market are filled in the order and subject

to the conditions above specified, so that if there is any danger that they shall not be so filled, the said excess may be immediately available to fill them; and

5. That the Philippine Sugar Orders Numbers Three, Four, and Five, insofar as they open the way for the export of sugar to countries other than the United States before the national quotas for domestic consumption and for the American market are filled in the order and subject to the conditions above specified, are injurious to the national interest.

Adopted, February 21, 1952.

S. Ct. R. No. 30

[CONCURRENT RESOLUTION NO. 32]

CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE PHILIPPINES TO MAKE REPRESENTATIONS TO THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE SAME FOR THE PASSAGE OF H. R. 7600 AND SENATE KEFAUVER BILL, 81ST CONGRESS, OR THE APPROVAL OF A SIMILAR BILL, AUTHORIZING THE APPROPRIATION OF AT LEAST ONE HUNDRED MILLION DOLLARS FOR ADDITIONAL WAR DAMAGE PAYMENTS IN THE PHILIPPINES.

WHEREAS, during the hectic days of the Japanese occupation, the late President Franklin D. Roosevelt promised the Philippines liberation and independence as well as full reparation of all the damages suffered thru the war;

WHEREAS, the present President of the United States reiterated that promise and in his message to the United States Seventy-Ninth Congress requested for the fulfillment of the same, in response to which request said Seventy-Ninth Congress approved the Philippine Rehabilitation Act of 1946, by which the Philippine War Damage Commission was created and authorized to disburse, as it did disburse, the amounts of 400 million dollars and 120 million dollars for the payment of private and public claims, respectively, resulting from property loss and destruction in the Philippines wrought by the last Pacific war;

WHEREAS, the defunct Philippine War Damage Commission was able to pay eligible private war damage claimants whose claims were approved in excess of $500, only that amount plus 52½ per cent of the balance of their corresponding approved amounts on the basis of 1941 values;

WHEREAS, the payments made to private claimants whose claims were approved in excess of $500 and those payments to the Philippine Government for damages to public prop-

erties sustained during the last war amount to only about 20 per cent of the actual cost of reconstruction due to the postwar rise of cost of materials and labor;

WHEREAS, when the amount of 520 million dollars, authorized in the Philippine Rehabilitation Act of 1946 to pay public and private claimants, was originally fixed by the United States Congress, it was stated during the hearings that said amount was a mere guess, for lack of reliable data, and that request for additional appropriations would be entertained when the volume of the total damage was ascertained;

WHEREAS, the United States Seventy-Ninth Congress provided, in Section 102 of the aforementioned Rehabilitation Act of 1946, a maximum payment of 75 per cent of the approved amount of the claims larger than $500, thereby giving an implied commitment to provide the necessary funds to make payments to that extent on the said larger claims;

WHEREAS, that commitment has become an obligation of the United States for the reason that under the said Philippine Rehabilitation Act of 1946 and the Bell Act, providing for trade relations between the United States and the Philippines, which complements the former, certain conditions were imposed upon the Filipinos and the Philippine Government, among which are the conditions that the Constitution of the Philippines should be amended so as to grant American citizens the same rights that the Filipinos have in the development of their country's natural resources etc.;

WHEREAS, the conditions imposed upon the Philippine Government and the Filipino people have been complied with, and it is but natural on their part to appeal to the sense of fairness and justice of the great American Government and people for the compliance on the part of the latter with the obligation of paying at least 75 per cent of the approved amount of the war damage claims larger than $500 resulting from property loss and destruction in the Philippines;

WHEREAS, two bills, H. R. 7600 and its counterpart in the Senate known as the Kefauver Bill, were presented before the Eighty-First Congress of the United States precisely to fulfill the aforesaid commitment by authorizing the appropriation of 100 million dollars for additional payment of war damages, of which about 70 million dollars shall be paid to private claims approved by the defunct Philippine War Damage Commission in excess of $500; 10 million dollars for payment in full to non-profit welfare and educational institutions; and about 20 million dollars for essential public works;

WHEREAS, of the more than 120,000 war damage claimants whose claims were approved in excess of $500, about 98 per cent are small businessmen and industrialists with individually approved claims not exceeding $25,000, and any additional payments to them would greatly contribute to the hastening of the rehabilitation of commerce and essential industries in the Philippines;

WHEREAS, it will redound not only to the best interest of the Philippine Government and people if said bills or a similar bill were passed by the United States Congress, but will also result in enhancing the prestige and trade of the United States of America in the Philippines, Asia and throughout the world; and

WHEREAS, additional war damage payments of at least one hundred million dollars is not only essential to the rehabilitation of the economy of the Philippines but also indispensable to contain and fight communism in the Far East: Now, therefore, be it

Resolved by the Senate, the House of Representatives of the Philippines concurring, That the President of the Philippines be requested, as he is hereby requested, to make the necessary representations to the Government of the United States of America, and to take such steps as may be needed to implement the same, for the passage of H. R. 7600 and the Senate Kefauver Bill, Eighty-first Congress, or the approval of a similar bill, authorizing the appropriation of at least one hundred million dollars for additional payment of war damages in the Philippines.

Adopted, March 11, 1952.

DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS

Executive Office

OFFICE OF THE PRESIDENT OF THE PHILIPPINES
MANILA

PROVINCIAL CIRCULAR
(Unnumbered)

February 11, 1952

RETIREMENT UNDER R. A. NO. 660 OF LOCAL OFFICIALS AND EMPLOYEES WHO ARE DUE FOR AUTOMATIC RETIREMENT UNDER SAID ACT, EFFECTIVE JUNE 16, 1952 OR EARLIER.

To all Provincial Governors and City Mayors:

For the information of all the local officials and employees who are due for automatic and compulsory retirement under Republic Act No. 660, it is advised that pursuant to the provisions of section 12(*c*) of Commonwealth Act No. 186, as inserted by section 8 of Republic Act No. 660, the continuance in the service of 65-year olds or over, if they so request, up to June 16, 1952 to make their retirement coincide with the payment of the retirement benefits afforded by said Act is hereby authorized provided they meet all the requirements for retirement under said Act.

It is requested that all the officials and employees concerned under your jurisdiction be given due notice immediately of the date of their automatic separation from the service and of the fact that they may, if they so desire, be allowed to enjoy their unused vacation and sick leave prior to June 16, 1952. It is also requested that appropriate steps be taken to enable them to receive their retirement benefits on or immediately after June 16, 1952.

With respect to those 65-year olds or over who have signified their intention to retire immediately or before June 16, 1952, they may be permitted to do so, effective after the expiration of their accumulated vacation and sick leaves to which they are entitled.

Positions left or to be left vacant by the retirement of officials and employees under Republic Act No. 660 shall not be filled without the prior approval of the President of the Philippines and proposed appointees to the said positions should not be 65 years of age or over, except in special cases approved by The President.

Copy of this Provincial Circular is being furnished the General Manager and Actuary of the Government Service Insurance System and the Commissioner of Civil Service for their information, guidance and appropriate action.

It is also requested that all the local officials under your jurisdiction be advised of the contents hereof for their information, guidance and compliance.

This supersedes Provincial Circular (unnumbered dated February 7, 1952, of this Office on the same subject.

By authority of the President:

MARCIANO ROQUE
Acting Executive Secretary

OFFICE OF THE PRESIDENT OF THE PHILIPPINES
MANILA

PROVINCIAL CIRCULAR
(Unnumbered)

February 26, 1952

APPOINTMENT, REQUIRED CERTIFICATION ON—

To all Provincial Governors and City Mayors:

In order that this office can promptly take appropriate dispositive action on all appointments from the local governments which are subject to its approval, it is requested that, hereafter, all such appointments be accompanied by a written certification (as per sample attached), duly signed by the appointing officials concerned, containing the following information:

1. That the proposed appointee is not related to the appointing officials or to any person exercising immediate supervision over him within the third degree either by consaguinity or affinity.
2. That the proposed appointee is known to the appointing official to be a person of good moral character and integrity and has no administrative, criminal or police record.
3. That the proposed appointee is not a member of, nor has he ever joined, any subversive society or organization.
4. That in cases where the proposed appointee to a classified position is not a civil service eligible, that there is no civil service eligible available for appointment or willing to accept such position.
5. That in cases of promotional appointment, the proposed appointee is the logical member from the ranks who should be appointed to the position involved. If the appointee is not the

logical member for promotion, the exceptional reasons for the appointment should be stated.

6. That the position and salary proposed for the appointee are in accordance with the corresponding budget and plantilla duly approved by the authorities concerned.

7. That the position to which the appointee is being proposed for appointment has been legally vacated. In this connection, the name of the former incumbent, the cause of his separation from the service and the effective date thereof should be duly stated. In case the former incumbent resigned, his letter of resignation and the acceptance thereof should be submitted.

8. In case the proposed appointee is a non-eligible and he is to replace another non-eligible, proofs should be submitted showing that the new appointee possesses at least the same qualifications as, if not better than, the non-eligible being relieved.

A certified copy of the service record of the appointee should also be attached to every appointment proposed.

It is requested that the foregoing requirements be complied with by all the appointing officials concerned. All appointments hereafter received in this office without the certification herein mentioned will be returned to the place of origin without action.

Provincial Governors are requested to transmit the contents of this circular to all Municipal Mayors under their jurisdiction.

MARCIANO ROQUE
Acting Executive Secretary

REPUBLIC OF THE PHILIPPINES
MUNICIPALITY OF .....

.....
(Date)

To Whom It May Concern:

In connection with the attached appointment of Mr. ....., as ..... at ₱ ..... p. a., effective ..... I hereby certify that:

1. He is not related to me or to any person exercising immediate supervision over him within the third degree either of consanguinity or affinity.

2. He is known to me to be a person of good moral character and integrity and has no administrative, criminal or police record.

3. He is not a member of, nor has he ever joined, any subversive society or organization.

4. He is not a civil service eligible but there is no civil service eligible available for appointment or willing to accept the position. (NOTE:—This may be omitted if the position is in the unclassified service; or when the appointee is a civil service eligible if the position is in the classified service.)

5. This is a promotional appointment and he is the logical member from the ranks who should be appointed to the position. (Note:—If the appointee is not the logical member for promotion, this fact should be stated instead followed by the exceptional reasons in support of the proposed promotion for him; in case of non-promotionl appointments, this may be omitted entirely.)

6. The position and salary proposed for him are in accordance with the corresponding budget and plantilla duly approved by the authorities concerned.

7. The position proposed for him has been legally vacated. (NOTE:—Enclose letter of resignation and acceptance thereof, if former incumbent resigned; if not resigned, state the cause and effective date of separation from the service.)

8. He is replacing another non-eligible but he possesses equal or better qualifications than the one replaced. (NOTE:—Attach proofs, if any, attesting to this fact.)

.....
(Appointing Official)

OFFICE OF THE PRESIDENT OF THE PHILIPPINES
MANILA

PROVINCIAL CIRCULAR
(Unnumbered)

February 26, 1952

PAYMENT OF LEAVE, PRIORITY OF—

To all Provincial Governors and City Mayors:

Reports have been received in this Office to the effect that the commutation of the accumulated leave of employees who have resigned or been separated from the service through no fault of their own, is being withheld or deliberately being delayed due to the refusal of some municipal mayors to approve the vouchers covering the same, notwithstanding the authority thereof under the provisions of Republic Act No. 611 by the proper Department Head.

It appears that the reason of the mayors concerned for refusing to sign the vouchers is lack of funds on the ground that payment of the money value of leave out of the appropriation for regular salaries will deprive the persons, who have been appointed to replace those who have resigned, of funds to meet their salaries for the duration of the leave of the latter. Hence, the question that arises is, who should be given the priority of payment: the employee who has resigned and who is entitled to commutation of his leave or the new appointee who has replaced the former? The Deputy Auditor General, in his third indorsement of January 21, 1952, has expressed the view that the former rather than the latter has the

priority to receive payment of the money value of his accumulated leave, thus:

> "As stated in the second paragraph of the next preceding indorsement, that unlike the former accrued leave which was abolished by Commonwealth Act No. 220, the present vacation and sick leaves mentioned in sections 284 and 285-A of the Revised Administrative Code, as amended, is not provided with a separate and distinct fund for its payment. An officer, employee or laborer who is granted vacation and sick leave while in the service receives the corresponding payment therefor from the fund out of which his regular salary would have been paid. Accordingly, this Office is of the view that an officer, employee, or laborer who resigns or is separated from the service through no fault of his own, may similarly be paid all unused vacation and sick leave to his credit not exceeding five months under the provisions of section 286 of the Administrative Code as amended by Republic Act No. 611 payable from the same appropriation or fund out of which his regular salary used to be paid, attention being invited to the first indorsement dated January 16, 1952, of this Office on the same matter, copy attached, which is self-explanatory."

The Undersecretary of Finance concurs in the views expressed by the Deputy Auditor General and he has indicated the procedure to be followed in providing funds for the salary of the new appointees in his fourth indorsement of January 29, 1952, as follows:

> "Respectfully returned to the Honorable, the Auditor General, Manila, concurring in the views expressed in the next two preceding indorsements with respect to the priority of payment of the accumulated vacation and sick leave of an officer, employee or laborer who resigns or is separated from the service through no fault of his own. Consequently, if on account of the needs of the service, the position involved has to be filled, the corresponding appropriation for the salary of the new appointee should be set aside which amount should form part of that allowable for expenditure for salaries and wages under section 2299 of the Administrative Code or Executive Order No. 405, series of 1951. If such amount is exceeded thereby, the corresponding approval of the authorities concerned should be secured."

This Office concurs fully in the views expressed in said indorsements and the President directs that all vouchers covering commutations of accumulated leaves of provincial, municipal and city officers, employees and laborers under your jurisdiction who have resigned or been separated from the service through no fault of their own, which commutations had been duly authorized, be approved immediately for payment if it has not already been done. Any violation hereof will be dealt with administratively as the facts of the case may warrant.

Provincial Governors are requested to transmit the contents hereof to all municipal and municipal district mayors under their jurisdiction for their information, guidance and strict compliance.

By authority of the President:

MARCIANO ROQUE
Acting Executive Secretary

Department of Justice

ADMINISTRATIVE ORDER NO. 41

March 3, 1952

AUTHORIZING JUDGE-AT-LARGE GABINO ABAYA TO HOLD COURT IN THE PROVINCE OF CAMARINES NORTE.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Gabino Abaya, Judge-at-Large, is hereby authorized to hold court in the Province of Camarines Norte, as soon as possible, for the purpose of trying all kinds of cases and to enter judgments therein.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 42

March 1, 1952

APPOINTING TEMPORARILY CITY ATTORNEY AMADO GADOR AS ACTING PROVINCIAL FISCAL OF MISAMIS OCCIDENTAL.

In the interest of the public service and pursuant to the provisions of section 1679 of the Revised Administrative Code, Mr. Amado Gador, City Attorney of Ozamiz City, is hereby temporarily appointed, in addition to his regular duties, Acting Provincial Fiscal of Misamis Occidental, effective March 3, 1952, and to continue during the absence on leave of the regular Provincial Fiscal thereof.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 43

March 5, 1952

AUTHORIZING CADASTRAL JUDGE JOSE P. FLORES PURSUANT TO HIS REQUEST TO DECIDE CERTAIN CASES IN THE CITY OF BAGUIO.

In the interest of the administration of justice and pursuant to the request of Cadastral Judge Jose P. Flores, he is hereby authorized to decide

in the City of Baguio criminal case No. 19259 and civil case No. 10850 of the Court of First Instance of Pangasinan which were previously tried by him while holding court in said province.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 44

March 6, 1952

DESIGNATING ATTY. MARIANO C. MORALES TO ASSIST THE CITY FISCAL OF MANILA IN THE INVESTIGATION AND PROSECUTION OF A CRIMINAL CASE.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Mariano C. Morales, Attorney, Public Service Commission, on detail in this department, is hereby designated to assist the City Fiscal of Manila in the investigation and prosecution of criminal case No. 6883, entitled "People *vs.* Alfonso Abad," for treason, effective immediately and to continue until further orders.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 45

March 6, 1952

FURTHER AMENDING ADMINISTRATIVE ORDERS NOS. 37 AND 40 INSOFAR AS THE ASSIGNMENT OF VACATION JUDGES FOR THE PROVINCES OF NEGROS OCCIDENTAL AND SAMAR IS CONCERNED.

Administrative Orders Nos. 7 and 7-A of this Department, dated January 23, 1952, as amended by Administrative Orders Nos. 37 and 40 of this Office, dated February 26, 1952 and February 29, 1952, respectively, is hereby further amended insofar as the assignment of vacation judges for the Provinces of Negros Occidental and Samar is concerned, as follows:

For the Province of Negros Occidental, District Judges Francisco Arellano and Eduardo D. Enriquez during April, and District Judge Jose Teodoro, Sr. and Cadastral Judge Lorenzo Garlitos during May; and

For the Province of Samar, District Judge Jose Rodriguez and Judge Froilan Bayona, during April, and District Judge Fidel Fernandez during May.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 46

March 5, 1952

DESIGNATING SPECIAL ATTORNEY PEDRO C. QUINTO TO ASSIST THE CITY FISCAL OF MANILA IN THE INVESTIGATION AND PROSECUTION OF A CERTAIN CASE.

In the interest of the public service, and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Pedro C. Quinto, Special Attorney, Department of Justice, is hereby designated to assist the City Fiscal of Manila in the investigation and prosecution of all violations of law in connection with sales-invoices of the former Surplus Property Commission, effective immediately, and to continue until further orders.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 47

March 7, 1952

DESIGNATING ASSISTANT PROVINCIAL FISCAL PACIFICADOR LLUCH TO ASSIST DANSALAN CITY ATTORNEY IN THE INVESTIGATION AND PROSECUTION OF CERTAIN CASES.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Pacificador Lluch, Assistant Provincial Fiscal of Lanao, is hereby designated to assist the City Attorney of Dansalan City in the investigation and prosecution of criminal cases arising from said City and triable in the Municipal Court and Court of First Instance of Dansalan City, effective immediately and to continue until further orders.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 48

March 10, 1952

ADVANCING THE COURT SESSION OF CUYO, PALAWAN TO MARCH 11, 1952 INSTEAD OF THE SECOND THURSDAY OF MARCH.

In the interest of the administration of justice and upon request of Cadastral Judge Filomeno Ybañez, the regular court session in the municipality of Cuyo, Province of Palawan, which by law should begin on the second Thursday of March, 1952, is hereby advanced to March 11, 1952, pursuant to section 54, last paragraph, of Republic Act No. 296.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 49

March 7, 1952

AUTHORIZING JUDGE EMILIO BENITEZ TO CONTINUE HOLDING COURT IN GUIUAN, SAMAR DURING THE MONTH OF APRIL, 1952.

In the interest of the administration of justice, pursuant to the provisions of section 56 of Republic Act No. 296, and upon request of Judge Emilio Benitez of the Thirteenth Judicial District, Samar, Second Branch, he is hereby authorized to continue holding court in the municipality of Guiuan, Prov-

ince of Samar, during the month of April, 1952, for the purpose of trying all kinds of cases and to enter judgments therein.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 50

March 12, 1952

DESIGNATING FISCAL PACIFICADOR LLUCH TO ASSIST THE CITY ATTORNEY OF ILIGAN EFFECTIVE IMMEDIATELY.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Pacificador Lluch, Assistant Provincial Fiscal of Lanao, is designated, in addition to his regular duties, to assist the City Attorney of Iligan City in the discharge of his duties, effective immediately and to continue until further orders.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 51

March 12, 1952

AUTHORIZING JUDGE-AT-LARGE JESUS Y. PEREZ TO DECIDE IN MANILA A CERTAIN CRIMINAL CASE

In the interest of the administration of justice and upon request of Judge-at-Large Jesus Y. Perez, he is hereby authorized to decide in Manila, Criminal case No. Q-279 of the Court of First Instance of Rizal, Branch III, entitled, "People *vs.* Pio Bariso" which was previously tried by him while holding court in Quezon City.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 52

March 13, 1952

DESIGNATING FISCAL AMADO S. SANTIAGO AS ACTING CITY ATTORNEY OF PASAY CITY IN THE INVESTIGATION AND PROSECUTION OF A COMPLAINT BETWEEN JUDGE FERNANDO C. VILLAROSA AND ASSISTANT CITY ATTORNEY MARCELO R. PEÑAFLOR OF SAME CITY.

In the interest of the public service and pursuant to the provisions of section 1679 of the Revised Administrative Code, Mr. Amado S. Santiago, Provincial Fiscal of Nueva Ecija, is hereby designated Acting City Attorney of Pasay City in connection with the investigation and prosecution of the complaint of Judge Fernando C. Villarosa of the Municipal Court, Branch II, Pasay City, against Assistant City Attorney Marcelo R. Peñaflor, same City, for direct assault upon a person in authority and libel, and the complaint of the latter against the former for serious oral defamation, effective immediately and to continue until further orders.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 53

March 17, 1952

AUTHORIZING JUDGE MARIANO NABLE TO DECIDE CERTAIN CASES IN MANILA

In the interest of the administration of justice and pursuant to the request of Judge Mariano Nable of the Fourth Judicial District, Nueva Ecija, First Branch, he is hereby authorized to decide in Manila, civil case No. 487 and special proceeding No. 276 of the Court of First Instance of Nueva Ecija which were previously tried by him while presiding over the court of first instance of said province.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 54

March 14, 1952

FURTHER AMENDING ADMINISTRATIVE ORDER NO. 7 AS AMENDED, INSOFAR AS THE ASSIGNMENT OF VACATION JUDGES FOR THE PROVINCES OF NUEVA ECIJA, BULACAN, ALBAY, CATANDUANES, MISAMIS OCCIDENTAL, AND ZAMBOANGA IS CONCERNED.

Administrative Order No. 7 of this Department, dated January 23, 1952, as amended by Administrative Orders Nos. 27, 40 and 45 of this Office, dated February 26 and 29, 1952 and March 6, 1952, respectively, is hereby further amended insofar as the assignment of Vacation Judges for the Provinces of Nueve Ecija, Bulacan, Albay, Catanduanes, Misamis Occidental and Zamboanga is concerned, as follows:

For the Province of Nueva Ecija, Judge-at-Large Manuel M. Mejia, during April and May, and Judge Francisco Arce, during April only;

For the Province of Bulacan, District Judges Bonifacio Ysip during May, and Roberto Gianzon, during April;

For the Provinces of Albay and Catanduanes, Cadastral Judge Maximo Abaño during April and May; and

For the Provinces of Misamis Occidental and Zamboanga, Cadastral Judge Enrique Maglanoc, during April and May.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 55

March 20, 1952

TEMPORARILY DETAILING LANAO PROVINCIAL FISCAL HONORATO BAUTISTA TO DISCHARGE THE DUTIES OF ASSISTANT CITY ATTORNEY OF DAVAO.

In the interest of the public service and pursuant to the provisions of section 1680 of the Revised Administrative Code, Mr. Honorato Bautista, Assistant Provincial Fiscal of Lanao, is hereby temporarily detailed to the City of Davao, there to discharge the duties of Assistant City Attorney, effective immediately and to continue until further orders.

This supersedes Administrative Order No. 18, dated February 3, 1952, of this Department.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 56

March 20, 1952

AUTHORIZING JUDGE JOSE R. QUERUBIN TO DECIDE IN MANILA CERTAIN CIVIL CASES

In the interest of the administration of justice and pursuant to the request of Judge Jose R. Querubin of the Eleventh Judicial District, Capiz, second branch, he is hereby authorized to decide in Manila the following cases which were previously tried by him while presiding over the second branch of the Court of First Instance of said province:

Civil case No. V–52—Mariano Sanchez et al. *vs.* Gregoria Victoriano et al.;
Civil case No. K–323—Perlita M. Enriquez *vs.* Jose Belante et al.;
Civil case No. K–295—Rufo Coching *vs.* Tecla Sacapano et al.;
Civil case No. K–170—Ireneo Tubang et al. *vs.* Claudio Nacionales; and
Civil case No. K–287—Esperanza Turiaga et al. *vs.* Jose Dumalaog et al.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 58

March 22, 1952

AUTHORIZING JUDGE FIDEL IBAÑEZ OF MANILA TO TRY CRIMINAL CASES NOS. 11232 AND 11727 AND ENTER JUDGMENTS THEREIN.

In the interest of the administration of justice, the Honorable Fidel Ibañez, Judge of the Sixth Judicial District, Manila, Ninth Branch, is hereby authorized to try criminal case No. 11232 against Jose C. Zulueta and criminal case No. 11727 against Angel Llanes, of the Court of First Instance of Manila, during the month of April, 1952, and to enter judgments therein.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 59

March 21, 1952

FURTHER AMENDING ADMINISTRATIVE ORDER NO. 7 AS AMENDED, INSOFAR AS THE ASSIGNMENT OF VACATION JUDGES FOR THE PROVINCES OF LEYTE, MISAMIS OCCIDENTAL AND ZAMBOANGA IS CONCERNED.

Administrative Order No. 7 of this Department, dated January 23, 1952, as amended by Administrative Orders Nos. 37, 40, 45 and 54 of this Office, dated February 26 and 29, 1952 and March 6 and 14, 1952, respectively, is hereby further amended insofar as the assignment of Vacation Judges for the Provinces of Leyte, Misamis Occidental and Zamboanga is concerned, as follows:

For the Province of Leyte, District Judge Segundo Moscoso and Cadastral Judge Enrique Maglanoc, (Tacloban, Leyte) during April and May; District Judge Arsenio Solidum (Baybay) during April and May, and also for (Maasin) during May; and District Judge Clementino V. Diez for Maasin, during April; and

For the Provinces of Misamis Occidental and Zamboanga, Cadastral Judge Sulpicio V. Cea, during April and May.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 60

March 24, 1952

DESIGNATING SOLICITOR LAURO MAIQUEZ AS ACTING JUDGE OF THE MUNICIPAL COURT, FIRST BRANCH, CITY OF MANILA.

In the interest of the public service and pursuant to the provisions of section 2466 of the Revised Administrative Code, Mr. Lauro Maiquez, Solicitor in the Office of the Solicitor General, is hereby designated Acting Judge of the Municipal Court, First Branch, City of Manila, during the absence on leave of Judge Ramon Ycasiano, from March 24, 1952 to May 22, 1952.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER No. 61

March 21, 1952

DESIGNATING FISCAL FELIX Q. ANTONIO AND CITY ATTORNEY EPITACIO PAÑGANIBAN TO ASSIST THE PROVINCIAL FISCALS OF LAGUNA AND QUEZON IN THE INVESTIGATION AND PROSECUTION OF ALL REBELLION CASES IN SAID PROVINCES.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Ad-

ministrative Code, Mr. Felix Q. Antonio Provincial Fiscal of Abra and Mr. Epitacio Pañganiban, City Attorney of San Pablo City, are hereby designated to assist the Provincial Fiscals of Laguna and Quezon Province in the investigation and prosecution of all rebellion cases in said provinces, effective immediately and to continue until further orders.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 62

March 25, 1952

TEMPORARILY DESIGNATING JUSTICE OF THE PEACE LORENZO DE GUZMAN TO ACT AS MUNICIPAL JUDGE OF CABANATUAN CITY.

In the interest of the public service and pursuant to section 75 of Republic Act 526, otherwise known as the Charter of the City of Cabanatuan, Mr. Lorenzo de Guzman, Justice of the Peace of Bongabong, Province of Nueva Ecija, is hereby temporarily designated to act as municipal judge of Cabanatuan city effective immediately and to continue until a regular municipal judge shall have been appointed or until further orders from this Department.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 63

March 25, 1952

AUTHORIZING JUDGE ANTONIO G. LUCERO TO HOLD COURT IN PUERTO PRINCESA, PALAWAN, BEGINNING APRIL 18, 1952.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Antonio G. Lucero, Judge of the Seventh Judicial District, Cavite and Palawan, Second Branch, is hereby authorized to hold court in Puerto Princesa, Palawan, beginning April 18, 1952, for the purpose of trying the criminal case against Doce et als., for malversation of public funds, and to enter judgment thereon.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 64

March 24, 1952

DESIGNATING FISCAL NATALIO P. AMARGA TO ASSIST THE CITY ATTORNEY OF ORMOC CITY IN THE INVESTIGATION AND PROSECUTION OF CERTAIN ELECTION CASES.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Natalio P. Amarga, Provincial Fiscal of Sulu, is designated to assist the City Attorney of Ormoc City in the investigation and prosecution of the charges against Iñaki Larrizabal and other election cases in said City, effective immediately and to continue until further orders.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 65

March 25, 1952

DESIGNATING ATTY. MARIANO C. MORALES OF THE PUBLIC SERVICE COMMISSION TO ASSIST THE CITY FISCAL OF MANILA IN THE INVESTIGATION AND PROSECUTION OF TREASON CASES.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Mariano C. Morales, Attorney, Public Service Commission, on detail in this Department, is hereby designated to assist the City Fiscal of Manila in the investigation and prosecution of treason cases, effective immediately and to continue until further orders.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 66

March 26, 1952

AUTHORIZING JUDGE-AT-LARGE ROMAN CAMPOS TO DECIDE DURING THE MONTH OF APRIL CASES PREVIOUSLY TRIED BY HIM.

In the interest of the administration of justice and pursuant to the request of Judge-at-Large Roman Campos, he is hereby authorized to decide during the month of April, 1952, the following cases previously tried by him and submitted to him for decision:

Criminal Case No. 349—P. *vs.* Ruelos
Civil Case No. 193—Cauton *vs.* Cabang
Civil Case No. C-98—Sanidad *vs.* Cauton

Civil Case No. 374—Revilla *vs.* Gutierrez
Civil Case No. 337 of Abra (Quo Warranto) Brillantes *vs.* Paredes

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 67

March 28, 1952

DESIGNATING SPECIAL ATTORNEY BENJAMIN GOROSPE TO ASSIST THE PROVINCIAL FISCAL OF ABRA IN THE INVESTIGATION AND PROSECUTION OF A CRIMINAL CASE.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Benjamin Gorospe, Special Attorney, Department of Justice, is hereby designated to assist the Provincial Fiscal of Abra in the investigation and prosecution of the criminal case entitled "People *vs.* Batoon et al.", for murder, effective immediately and to continue until further orders.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 68

March 28, 1952

DESIGNATING JUSTICE OF THE PEACE RUFINO GALINDO OF CLARIN, MISAMIS OCCIDENTAL TO ACT AS MUNICIPAL JUDGE OF OZAMIS CITY.

In the interest of the public service and pursuant to section 75 of Republic Act No. 321, Mr. Rufino Galindo, Justice of the Peace of Clarin, Misamis Occidental, is hereby designated to act temporarily as Municipal Judge of Ozamiz City beginning March 24, 1952 and to continue only during the absence of Mr. Santiago Catañe, the regular incumbent, who has been granted leave of absence beginning said date.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 69

March 28, 1952

DESIGNATING PROVINCIAL FISCAL JOSE S. QUEZON OF MINDORO ORIENTAL TO ASSIST THE PROVINCIAL FISCAL OF MINDORO OCCIDENTAL IN THE INVESTIGATION AND PROSECUTION OF MALVERSATION CASES.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Jose S. Quizon, Provincial Fiscal of Mindoro Oriental, is hereby designated to assist the Provincial Fiscal of Mindoro Occidental in the investigation and prosecution of the malversation cases in the Court of First Instance of the latter province entitled "People *vs.* Juan Beltran," Case No. R–15; "People *vs.* Juan Beltran et al.", Case No. R–22; and "People *vs.* Eriberto Abao", Case No. R–14, effective immediately and to continue until further orders.

OSCAR CASTELO
Secretary of Justice

ADMINISTRATIVE ORDER NO. 70

March 28, 1952

FURTHER AMENDING ADMINISTRATIVE ORDER NO. 7 AS AMENDED BY ADMINISTRATIVE ORDERS NOS. 37, 40, 45, 54, AND 59 INSOFAR AS THE ASSIGNMENT OF VACATION JUDGES FOR THE PROVINCES OF LEYTE, MISAMIS OCCIDENTAL AND ZAMBOANGA. IS CONCERNED.

Administrative Order No. 7 of this Department, dated January 23, 1952, as amended by Administrative Orders Nos. 37, 40, 45, 54, and 59 of this Office, dated February 26 and 29, 1952 and March 6, 14, and 21, 1952, respectively, is hereby further amended insofar as the assignment of Vacation Judges for the Provinces of Leyte, Misamis Occidental and Zamboanga is concerned, as follows:

For the Province of Leyte, District Judge Segundo Moscoso and Cadastral Judge Sulpicio V. Cea (Tacloban, Leyte) during April and May; District Judge Arsenio Solidum (Baybay) during April and May and also for (Maasin) during May; and District Judge Clementino V. Diez for Maasin, during April; and

For the Provinces of Misamis Occidental and Zamboanga, Cadastral Judge Enrique Maglanoc, during April and May.

OSCAR CASTELO
Secretary of Justice

Department of Agriculture and Natural Resources

FISHERIES ADMINISTRATIVE ORDER NO. 2–16

January 7, 1952

ADDING SECTION 23-A TO SECTION 23 OF FISHERIES (FISH AND GAME) ADMINISTRATIVE ORDER NO. 2, AS AMENDED.

SECTION 1. Section 23–A is hereby added to section 23 of Fisheries Administrative Order No. 2, to read as follows:

"SEC. 23–A. *Presentation of receipts and/or auxiliary invoices of fresh, or dried fish, shell meat, etc.*—Possessors, dealers, handlers of fish

and shell meat, whether in fresh, dried, or cured state or form shall, upon demand by any fish warden, deputy fish warden, or any officer authorized to enforce the provisions of the Fisheries Act, present receipts or invoices and/or auxiliary invoices for the fish found under their possession. The receipts, invoices, and/or auxiliary invoices should contain the following informations: origin of fish, from whom bought (if purchased), kind or species of fish or fishery products, quantity in kilos, name of fishing boat which caught or carried the fish, the date of purchase, name of owner of the fishing boat, and signature of licensee or authorized representative. In the absence of any such receipt, the possessor at the time of inspection shall, upon demand by any authorized officer, pay the required fish caught fee for the fishery products found in his possession, based on the following rates: (*a*) ₱2 per metric ton of fresh fish, shell meat or fishery products (*b*) ₱1 per metric ton of all kinds of preserved fish, like dried fish, salted fish, salted shell meat, smoked fish and all other fishery products.

SEC. 2. All regulations or orders inconsistent with this order are hereby repealed.

SEC. 3. This Administrative Order shall take effect sixty days after its publication in the *Official Gazette*.

FERNANDO LOPEZ
Secretary of Agriculture and Natural Resources

Recommended by:

For and in the absence of the Director of Fisheries:

ZOILO B. ASIS
Chief, Administrative Division

Department of Public Works and Communications

RADIO CONTROL BOARD

DEPARTMENT ORDER NO. 89

February 29, 1952

AMENDING SECTION TWENTY-NINE OF DEPARTMENT ORDER NUMBERED ELEVEN OF THE DEPARTMENT OF COMMERCE AND INDUSTRY, GOVERNING THE CONSTRUCTION, INSTALLATION, ESTABLISHMENT OR OPERATION OF RADIO STATIONS, ETC.

SECTION 1. Paragraphs I and II of section 29 of Department Order No. 11 of the Department of Commerce and Industry, dated October 10, 1950, is hereby amended by adding in paragraph I thereof a sub-paragraph (*s*) at the end of said paragraph and by adding sub-paragraph (*q*) at the end of paragraph II of said section to read as follows:

"SEC. 29. *Fees to be paid.*—

"I. (*s*) Ionosphere, direction finding and/or any other radio station performing a special type of service ..... ₱5.00

"II. (*q*) Ionosphere, direction finding and/or any other radio station performing a special type of service ..... 10.00"

SEC. 2. All reference to the Secretary of Commerce and Industry made in the regulations shall hereafter be made to refer to the Secretary of Public Works and Communications.

SEC. 3. This Department Order shall take effect on March 1, 1952.

SOTERO BALUYUT
Secretary

Central Bank of the Philippines

LIST OF LEGAL PARITIES AND/OR EXCHANGE RATES OF THE VARIOUS FOREIGN CURRENCIES IN TERMS OF U. S. DOLLARS AND THE PHILIPPINE PESO

Member countries with par values	Unit	Equivalent in U.S. currency	Equivalent in Philippine currency
Australia	Pound	$2.240	₱4.480
Belgium	Franc	.020	.040
Bolivia	Boliviano	.017	.034
Brazil	Cruzeiro	.054	.108
Chile	Peso	.032	.064
Colombia	Peso	.513	1.026
Costa Rica	Colon	.178	.356
Cuba	Peso	1.000	2.000
Czechoslovakia	Koruna	.020	.040
Denmark	Krone	.145	.290
Dominican Republic	Peso	1.000	2.000
Ecuador	Sucre	.067	.134
Egypt	Pound	2.872	5.744
El Salvador	Colon	.400	.800
Ethiopia	Dollar	.402	.804
Finland	Markka	.004	.008
Guatemala	Quetzal	1.000	2.000
Honduras	Lempira	.500	1.000
Iceland	Krona	.061	.122
India	Rupee	.210	.420
Iran	Rial	.031	.062
Iraq	Dinar	2.800	5.600
Lebanon	Pound	.456	.912
Luxembourg	Franc	.020	.040
Mexico	Peso	.116	.232
Netherlands	Guilder	.263	.526
Nicaragua	Cordoba	.200	.400
Norway	Krone	.140	.280
Pakistan	Rupee	.302	.604
Panama	Balboa	1.000	2.000
Paraguay	Guarani	.167	.334
Sweden	Krona	.193	.386
Syria	Pound	.456	.912
Turkey	Lira	.357	.714
Union of South Africa	Pound	2.800	5.600
United Kingdom	Pound	2.800	5.600
United States	Dollar	1.000	2.000
Venezuela	Bolivar	.298	.596
Yugoslavia	Dinar	.020	.040

SOURCE OF BASIC DATA: International Financial Statistics, December, 1951

Member countries without par values	Unit	Equivalent in U.S. currency	Equivalent in Philippine currency
Austria	Schilling		
Effective	....do	$0.046	₱0.092
Premium	....do	.038	.076
Canada	Dollar	.947	1.894
Ceylon	Rupee	.210	.420
France	Franc	.003	.006
Greece	Drachma	.000067	.000134
Indo-China	Piastre	.048	.096
Israel	Pound	2.800	5.600
Italy	Lira		
Official	....do	.0016	.0032
Curb	....do	.0015	.0030
Peru	Sol		
Certificate	....do	.065	.130
Free	..do	.064	.128
Thailand	Baht		
Official	....do	.079	.158
Free	....do	.045	.090
Uruguay	Peso		
Official: Basic	..do	.526	1.052
Special	....do	.408	.816
Free	....do	.394	.788

SOURCE OF BASIC DATA: Monthly Bulletin of Statistics, Statistical Office of the U. N., November, 1951.

Non-member countries with par value	Unit	Equivalent in U.S. currency	Equivalent in Philippine currency
Argentina	Peso		
Preferential	....do	$0.200	₱0.400
Basic	....do	.133	.266
Free		.070	.140
Curb		.034	.068
Western Germany	Deutschemark..	.238	.476
Hongkong	Dollar		
Official	....do	.174	.348
Free	....do	.148	.296
Indonesia	Rupiah		
Basic	....do	.262	.524
Effective export	....do	.132	.264
Effective import	....do	.088	.176
Ireland	Pound	2.800	5.600
Japan	Yen	.003	.006
New Zealand	Pound	2.800	5.600
Poland	Zloty	.250	.500
Portugal	Escudo	.035	.070
Rumania	Leu	.007	.014
Spain	Peseta		
Range of official rate	....do	.089–.046	.178–.092
Free	....do	.025	.050
Switzerland		.230	.460

SOURCE OF BASIC DATA: Monthly Bulletin of Statistics, Statistical Office of the U. N., November, 1951.

APPOINTMENTS AND DESIGNATIONS

BY THE PRESIDENT OF THE PHILIPPINES

January, 1952

Antonio Rubio as ad interim Justice of the Peace of Hindang, Leyte, January 18.

Cesar Gonzales as ad interim Justice of the Peace of Kananga, Leyte, January 18.

Panfilo Tabudlong as ad interim Justice of the Peace of Herida and Isabel, Leyte, January 18.

March, 1952

Panfilo Dunque as acting Provincial Treasurer of Misamis Oriental, March 12.

Dr. Juan Salcedo, Jr., ad interim Chairman of the Food Commission, March 18.

Aurelio Intertas and Saturnino R. Mendinueto as Members of the Food Commission, March 18.

Mrs. Dulce L. Bocobo as Member and Executive Secretary of the Food Commission, March 18.

HISTORICAL PAPERS AND DOCUMENTS

FORTY-FIRST MONTHLY RADIO CHAT OF HIS EXCELLENCY ELPIDIO QUIRINO, PRESIDENT OF THE PHILIPPINES, BROADCAST FROM MALACAÑAN, MARCH 15, 1952.

My Fellow Countrymen:

Our political firmament is darkening again with increasing war clouds. Once more the national atmosphere is becoming surcharged with intense personal hate, factional hostility, and political suspicion, not only as an aftermath of the last elections and recent intramural party squabbles, but apparently or most assuredly in anticipation of the forthcoming fight for control of the administration.

Although this contest is not going to be staged until twenty months hence, our people are now being distracted and made to forget the immediate dangers of a bigger war in the vicinity. The verbal cannonades now resounding in the halls of Congress and political caucuses are rendering the ears of many of our responsible leaders insensible to the explosions of real cannons and bombs in the war theaters in our neighborhood and the dangers they pose to our national welfare and security.

And what is worse, the basic operations of laying stone by stone in the farms, in the factories, in the mines, and in the forests, for the earnest building of this country and its defenses are being ignored or stalled. People are being lulled into a delusion that they can afford the luxury of resting on their oars, of stopping to promote and admire the wasteful fireworks that are now diverting the attention of the nation from the vast construction job at hand which is in the height of execution.

I have just returned from a trip to the Bicol provinces. I spent six days of study and observation of the needs and problems of that region. I was grateful to observe that the people, even the barrio folk, that I met had not as yet been dragged into the whirlwind of political or partisan rage lashing other regions, to the great injury and prejudice of the permanent interests of the country.

Predominantly a Nacionalista stronghold, the Bicol region accorded me a very pleasant welcome during my whole tour, affording me an opportunity to discuss without political or partisan bias the peculiar problems of each political subdivision visited. In the same spirit I reacted immediately, solving many of such problems on the spot where opportunity and available facilities permitted. I pause to deny that I ever made the statement that no Nacionalista should be helped by the administration. As a matter of fact, I promised to give the Congressman from Daet, Ca-

marines Norte, ₱20,00 for the reconstruction of the municipal building. That was when the Nacionalista mayor appealed to me for assistance. The same thing I did in Virac, a Nacionalista town. When the governor, a Nacionalista, and the mayor, another Nacionalista, appealed to me for assistance to rehabilitate their emergency hospital and convert it into a provincial hospital, I immediately promised and have already ordered the sending of ₱10,000 for the necessary equipment. I ordered the construction with an initial release of ₱50,000 for the construction of the provincial hospital building of the province. And in Sorsogon, another Nacionalista mayor appealed to me for the construction of an annex to the provincial hospital. I immediately promised to help because I knew that we had funds for such purpose. These are just small matters perhaps, in comparison with the greater and more numerous aid I promised, especially in connection with the construction of irrigation projects and for the improvement of those in the vicinity. There was mutual receptiveness between host and visitor. I have nothing but praise and appreciation for the correct and enviable conduct of fellow countrymen that I met. This is without any exception.

Again I am convinced more than ever before that that region is a real asset to our national economy. All it needs is the proper incentive and encouragement in the exploitation of its rich natural resources. Extended the proper assistance in the construction of irrigation projects, the rehabilitation of its ports, the harnessing of some of its beautiful waterfalls for hydraulic power or water system, the promotion and development of its peculiar potentialities for tourist attraction, the region promises to be a substantial mainstay of the nation. I was deeply impressed by the earnestness and serious concern of the inhabitants in the rapid development of their resources.

The coconut and abaca industries are uppermost in their mind. The resumption of the mining activities, especially in Camarines Norte, is stirring the people's spirit of enterprise, reawakening their faith in their bright future. The atmosphere of the whole region is constructive. This is in keeping with the spirit of the new epoch. I found the same spirit animating the inhabitants of Eastern Visayas, particularly Leyte and Samar, which I visited two months ago. This is the spirit that should pervade the whole country today.

In our industrial awakening as well as in war, we need a moral rearmament to steel our mind and soul in the prosecution of our objectives. And we can only do this by opening our eyes to realities.

Idle talk or abstract theorizing cannot move our people to action. Examples demonstrative of accomplishments are needed to convince and inspire our people to similar deeds.

This is what we are actually doing now. With the establishment of our basic industries many of which were inaugurated in the latter part of last year, and with the inauguration of more during this year, it will be shown that our ambitious program of total economic mobilization is not a myth. Nor is it a farce or a mere shibboleth dangled before the public eye as mere propaganda.

The Lumot hydro-electric project in Laguna was inaugurated in January this year. The spinning mill of the National Development Company in Narvacan, Ilocos Sur, has been in operation since the latter part of last year.

The Maria Cristina hydro-electric plant in Mindanao will be inaugurated the first part of next year. Simultaneously, if not earlier, the fertilizer plant being constructed beside it will also be inaugurated. And the steel mill in the same vicinity will follow.

About the same period of next year the national shipyards being constructed at Mariveles will also be inaugurated. Temporarily, the shipyards will be served by an auxiliary generator now being installed. But the main power will come from the Ambuklao project, the biggest hydro-electric plant in the Island of Luzon, which is now under construction and perhaps will be inaugurated in July of 1954. This hydro-electric plant will electrify the whole region north of Manila as far as La Union and will furnish power to the cement plant to be established at Poro in San Fernando, La Union, whose cornerstone I'll lay March 22.

The numerous irrigation projects completed or being constructed in strategic regions of production constitute an eloquent testimony of our bold determination to extend agricultural development as well. Since 1948, we have completed a dozen irrigation projects covering a total area of more than 24,190 hectares. The most important of these projects are the Pampanga River irrigation in Nueva Ecija, zones 1 and 2, covering a total area of 12,000 hectares; the Maasim River irrigation project in Bulacan and Pampanga with a total area of 2,500 hectares; and the Totonugen irrigation project in Pangasinan covering 2,600 hectares. For the moment we are constructing six more, representing a total area of 18,350 hectares. The most important of these projects are the Santo Tomas river irrigation project in Zambales, which will be inaugurated by June of this year, and will cover 6,000 hectares; the Palo, Tacloban, irrigation project in Leyte now near completion, covering 4,000 hectares; and the Gumaca River irrigation project, Quezon, covering 3,500 hectares also being completed. In Iloilo, we have the Jalaur irrigation project covering 15,000 hectares. This is a 7 million project and will be finished by next year.

There are many other important projects included in the MSA (formerly ECA) assistance program which is dove-

tailed with our total economic mobilization program, all awaiting the allocation of funds provided by the Central Bank, as well as from the $250 million dollars committed by the United States to finance the MSA or ECA program in the Philippines, together with the counterpart funds already approved by our Congress.

These facts may have no sense to those who unknowingly disparage our general program of development. But it is certainly not nonsense as characterized by some sour individuals whose bitter criticisms and complaints are matched only by the safety, peace, and well-being that they enjoy today in generous measure, thanks to the determined efforts of this administration to carry on with its program of peace and development despite chronic carping from the very articulate prophets of gloom and disaster.

It is time we realized, however, that we do not have unlimited time to squander in personal and partisan bickerings while work of critical urgency to our stability and safety is laid aside or made to wait indefinitely.

That we have to date achieved a measure of recovery and development as to make some people imagine we can relax for some old-fashioned fishwives quarreling, is no ground to continue tempting a benevolent Almighty.

It was widely agreed after the last election that we all needed to buckle down to work. There were resolutions even, widely announced, to act in earnest like true servants or representatives of the people. Let us get back all those fine resolutions from storage and give them consistent exercise, not only for the good of our souls but for the protection and preservation of what we now are apt to take for granted—the freedom to work out our own destiny and provide a durable setting for the fulfillment of human justice and dignity.

Nobody will wait for us forever to compose our petty and personal and costly differences. Not the kind of world we have today which is trembling on the edge of possible disaster that may not be repaired by any treaty conceivable to men or any bold new point 4 program.

Let us give ourselves, our people, a sporting chance to raise a soundly founded structure of strength equal to the challenge of our times. We must produce, stockpile, construct, and build our defenses individually and collectively. Words are no substitute for rice; nor good intentions, for heaven. Don't we often say: An empty bag cannot stand? To be sure we cannot build on complacency and idleness, much less on hate and bitterness. Let us think of our children, and give them the same opportunity which our heroic and martyred predecessors left to us to carry on with the precious heritage of our people.

R.O.T.C. ADDRESS OF PRESIDENT ELPIDIO QUIRINO AT THE GRAND STAND ON THE LUNETA, MARCH 16, 1952.

I want to thank you for honoring me this afternoon. It is time that we met in patriotic communion.

You have come to this spot treading sacred ground. Where once the *garrote* and the firing squad cast their dreadful shadow, the heroism and martyrdom of yesterday brought forth the freedom and democracy that we enjoy today.

The lone flag that proudly floats over our heads this afternoon recalls the day where at yonder spot the Republic of the Philippines was proclaimed and established on July 4, 1946. On this hallowed ground, in solitary grandeur and solemn contemplation, stands the majestic figure of Rizal, whose faith and hope on our youth are incarnated by this inspiring assemblage.

This moment in our history is no longer night meeting day, or dawn—we are at the zenith of our liberty. To preserve this day is our greatest task—it is a responsibility destiny has specially placed upon our shoulders. We are therefore gathered here to meet the challenge—Rizal's challenge.

How did the youth respond to his challenge? We who were young when he died and you who are young when we are ready to give way to you, can affirm that we did not fail him.

His dream has been realized.

We have built a new country. If you look around and recall the shambles to which this fair city was reduced upon liberation, the wonderful vistas which you now contemplate will impress you with the magnitude of the efforts that have been exerted at nation-building.

We have built not only for today and for ourselves, but for tomorrow and for our children. We have kept pace with modern progress and advancement. There is an entirely new atmosphere that pervades the country today.

Barely six years since July 4, 1946, what has been done?

We have laid the foundation of a stable government.

We have not only rehabilitated and rebuilt public buildings, roads, bridges, ports, wharves and seawalls, irrigation systems and flood and river controls and built some more, but from the ashes of war we have reconstructed the financial and economic structure of the country, arresting inflation and stabilizing our currency.

We have increased our agricultural production, established many industries, expanded our foreign trade.

We have improved the living standards of our people, raising the birth rate, reducing the death rate, building low-cost housing for low-income groups, fixing minimum wages for industrial and agricultural workers, increasing the salaries of teachers, nurses, enlisted men, and providing a general retirement system for all government servants.

We have emasculated Communism and made Democracy work on our soil.

We have acquired a personality in world affairs, we have established our credit abroad, and we have made a new name in bravery and heroism in the field of battles.

We are fighting for freedom not only on our own soil; we are fighting for the same ideal even beyond our shores.

We are not fighting for internal security alone; we are also fighting for external security and for the peace of the world.

When the Philippine Army was conceived upon the establishment of the Commonwealth Government, our objective was to prepare no less than 200,000 men ready, willing, and well-equipped, to insure internal security as well as to ward off foreign aggression.

We knew we might not have this number as a permanent standing army, but we relied on our capacity to raise a citizen army big and strong enough to protect our right to be free.

You form part of a select few who year by year are being trained to constitute and lead a citizen army. The challenge of this day is how to preserve our country and continue enjoying our liberty.

In the recent past you helped maintain and strengthen our democracy. It is imperative that you pledge to give your all to do so, for it is for you that the present generation—those now engaged in the battlefields of Korea and in the Communist-infested regions of our land—are sacrificing their lives and our fortunes, that you may continue enjoying tomorrow and with your children the blessings of freedom and democracy.

This country may be conquered again, but it will never die. It will never die as long as the fortitude that we exhibited in the darkest hours of our history dominates our spirit. It will never die as long as we love each other and pledge in unity to defend our common patrimony. It will never die as long as we are guided by the lessons of war in our daily life. It will never die as long as we have faith in ourselves and in the future of this country, and can keep our friends who believe in our continued existence as a nation. It will never die as long as we have faith in God who presides over our destiny.

In all these lies our moral strength, strength that must increase every passing day. Indeed, more than ever, we need moral rearmament to meet the actual and active threat to our national existence.

We must determine to eradicate from our midst the agents of the enemies of our freedom and democracy against whom we are shedding the blood of our manhood abroad. What a sad spectacle that, while we are sacrificing our lives to fight them in Korea, some of us protect and defend them

in the courts of our land! Moral courage—there must be moral courage here.

But moral strength is not enough. Heroism, bravery, and patriotism are mere abstractions when there is no physical strength to manifest them. We have to stand on firm ground, using all the vigor that material and physical advantages can bring to give steel to our sinews. Even the rock of freedom must find basic substance.

We have to make this land, our land, strong, stable, healthy, wealthy, and happy, exploiting all the resources that nature has placed in our hands to make it worth defending and dying for.

In my radio chat last night, I enumerated our accomplishments in this direction. It would be superfluous to repeat their enumeration here.

The only way to accomplish our great objective is to mobilize all our resources and generate the power needed to strengthen our defenses. In a concentrated effort we have been doing this during the last three or four years. In fact, we are in the midst of execution of a program of national action.

We have expanded our production. We have given impetus to industries by the establishment of the basic ones.

The national development program for our country is not a new thing. We have had economists, industrial and agricultural planners, who had adventured in the economic field early in our national history. But we could not make available the means with which to realize our ambition to build and strengthen our national economy. At long last we now have the means with the assistance, pecuniary and technical, of our friends abroad. Assistance in military and economic security is afforded by our great friend, the United States of America. And the whole democratic world looks upon us with friendly sympathy and encouragement.

We must now concentrate our vital attention. We must not lose time. We must increase our momentum. We must take advantage of every opportunity to develop and expand our constructive activities. We must make available for survival and continued existence all the necessary material and strength to cope with the exigencies of what looms, potentially, as the most crucial world struggle we have yet ever faced.

You are already feeling the repercussions of that struggle. The waves from every direction are bringing to our shores sinister evidences of the international conflict. Let us not continue deluding ourselves into the belief that we are safe, simply because we have entered into pacts with our allies for mutual defense. Only the feeling of security which is provided by our own efforts can make our conscience rest.

You and I who have pledged to give our all to this country that it may live, must be alert to our responsibility. As the chosen soldiers of a militant army, we must stand

as sentinels everywhere, not only to guard our rights to be free but to make our citizens strong and secure.

You are here gathered to renew that pledge and to derive new inspiration from our present accomplishments. We have shown to the world that we can stand as a free and independent country if we only will it.

This afternoon I invite you all to rise as one man to show that we will! This morning I heard this gospel message: "Every kingdom divided against itself will bring desolation, and house will fall upon house." May God give us light and strength to heed this warning.

THE PRESIDENT'S MESSAGE TO BOTH HOUSES OF CONGRESS, RECOMMENDING THE EXTENSION OF THE SPECIAL QUOTA OF 1,200 AMERICAN CITIZENS UNDER THE EXECUTIVE AGREEMENT ENTERED INTO BETWEEN THE PHILIPPINES AND THE UNITED STATES ON JULY 4, 1946.

March 18, 1952

Sirs:

I refer to Article VI (2) of the Executive Agreement between the Philippines and the United States, entered into on July 4, 1946, entitled "AN AGREEMENT CONCERNING TRADE AND RELATED MATTERS," which provides as follows:

"2. There shall be permitted to enter the Philippines, without regard to any numerical limitations under the laws of the Philippines, in each of the Calendar years 1946 to 1951, both inclusive, 1,200 citizens of the United States, each of whom shall be entitled to remain in the Philippines for 5 years."

This Agreement was entered into by the President of the United States of America through his duly empowered Plenipotentiary in pursuance of an act of the United States Congress (Philippine Trade Act of 1946) with the President of the Philippines, acting pursuant to the provisions of Commonwealth Act No. 733.

The special quota of 1,200 a year was in addition to the regular quota of 500 under the Philippine Immigration Act of 1940 which was later on reduced to 50 by Republic Act No. 503 approved on June 12, 1950. It was intended for American citizens and their families who were proceeding to the Philippines as technicians directly connected with rehabilitation activities of the Philippine Government or of private organizations. In practice, however, especially during the time of the late President Roxas, a liberal policy was followed in the allocation of these special quota numbers to American citizens as long as there was an indication that their work or business would aid in the rehabilitation of the country.

With the special quota no longer available after December 31, 1951 in accordance with the above-mentioned Agreement, and with the regular quota reduced from 500 to 50, it is not now possible for a large number of American citizens to come to the Philippines for business or employment. They may not come in as temporary visitors because temporary visitors are not allowed to engage in any work

in this country. Besides their stay would necessarily be limited to only one year.

The United States Embassy has informally approached our Government to explore the possibility of extending the special quota of 1,200 to American citizens under the Agreement through some kind of understanding or supplementary agreement.

I believe that there is no question as to the desirability of, if not the need for, the continued entry of this class of special quota immigrants in the interest of our economic development program. They are mostly executives and skilled technicians and do not therefore offer any competition to Filipinos engaged in the same activities.

However, unlike other kinds of executive agreement which are entered into by the President by virtue of his independent power as Commander-in-Chief or the sole constitutional organ for the conduct of foreign relations, this Philippine–United States Agreement concerning trade and related matters was made in pursuance of a legislative authorization granted by a specific statute passed by the United States Congress authorizing the President of the United States to enter into it by virtue of a law passed by our own Congress granting a similar authorization to the President of the Philippines. It seems clear, therefore, that any modification or amendment to be introduced into any of the commitments of the Philippines under that Agreement needs either a prior authorization from the Congress of the Philippines or subsequent legislative approval in order that such modification or amendment may become valid and effective.

In view thereof, I propose to instruct the Secretary of Foreign Affairs to begin negotiations with the United States Government for the conclusion of a supplementary agreement extending the operation of Article VI, paragraph 2, of the Agreement for another five calendar years beginning 1952, subject to the same causes of termination as those provided for in Article X, paragraph 2, of the Agreement. I shall appreciate the concurrence of the Senate (and House of Representatives) to this proposed course of action for the reasons stated above.

EXTEMPORANEOUS REMARKS OF THE PRESIDENT AT THE LUNCHEON GIVEN IN HONOR OF MRS. ELEANOR ROOSEVELT AT MALACAÑAN, MARCH 28, 1952.

Ladies and Gentlemen:

Again we are gathered at this festive hall to celebrate an important occasion in the life of our nation. About this time on December 20, 1933, I had the distinction of sitting to the left of the distinguished gentleman at the White House who, at that moment pledged to support our campaign for independence in the United States. That was after our people had rejected the Hare-Hawes-Cutting Act and President Quezon and the rest of the members of

his mission, of which I was one, proceeded to the United States to secure a better independence law.

On March 24, the following year, 1934, again I had the fortune of standing behind that distinguished gentleman when he signed the Tydings-McDuffie Law at the White House, granting complete and absolute independence to the Philippines. By a fluke of fate, and perhaps fortune, on this day as I preside over the destiny of this country, I find myself to the left of no less a distinguished person whose role in the world is now recognized as one determining factor in guiding the fate of humanity. (Applause.)

Mrs. Eleanor Roosevelt, perhaps you don't know it, but aside from your own distinguished personality in world leadership in democracy and humanity at large, the people of the Philippines love you as the depository of the affection and confidence of President Roosevelt. Our people would like to lavish to you and to the American people in general, the same love and affection and confidence, the benign influence of which made it possible for us in this country to practice democracy that is now our privilege to enjoy.

You are not merely supplementing, nor even complementing for that matter, the vision and conviction of President Roosevelt in establishing here a democracy to be the model in this part of the globe. You have a distinct personality and being; and our love for President Roosevelt is heightened by your presence with us today.

We have long suffered, especially during the last five or six years. We went through all kinds of vicissitudes and great difficulties not only in reconstructing and rehabilitating this country, but in stabilizing it so that it can cope with the situation and preserve that institution which was the object of President Roosevelt's action.

We long to have somebody to give us that encouragement, to kindle anew the determination to make us more decided to protect and make more lasting the principles of democracy further implemented here under the Tydings-McDuffie Law. President Roosevelt did not live long enough to witness the success of our venture in democracy and in freedom on our soil, but you have arrived today, and, in this fleeting moment in which you are with us, I am sure you will receive the greatest acclamation of our people, the sincerest of our people's loving affection to you and the United States because of that boon of liberty that you gave us.

You have come, therefore, to rekindle anew in us enthusiasm, widening our horizon and giving us new hopes for the preservation of national security which you and your husband helped to build. (Applause.) I know that after an hour or so you will be asked to say something to the people. I may not have the privilege to be with you but I will hear you over the radio. But before I take my seat I

wish you would say something to me and to our people. I would ask the ladies and gentlemen gathered here to rise with me and join me in a toast for the pleasant stay of Mrs. Roosevelt here, hoping that it will be of great positive and enduring results in the promotion of mutual friendship and loyalty and security of our two peoples.

* * *

MRS. ROOSEVELT'S RESPONSE

Mr. President, Mr. Spruance,
Ladies and Gentlemen:

It is a very great pleasure indeed to be here and particularly more so to hear that wonderful feeling expressed for my husband and carried over in the same way to me. My husband had a great love for the people of the Philippines and a great interest in your efforts to make this nation great, which you are doing at the present time. He always had interest in the free nations of the world and in how they could build and build, even better than the other nations have done.

I am very hopeful that all these new nations, some of them very old in culture and in history, but new in the democratic experiment will succeed. I think it is a very great thing that at present we have in India, in Pakistan, in Israel, in Indonesia, and here in the Philippines, all nations with backgrounds of history but trying a new experiment which each one probably will carry on in its own way but each one may give to those of us who consider ourselves as older in the democratic traditions some inspiration, some little push to revive our own ideals and to make us more determined to go along with you and keep the ideals of democracy and freedom and justice high before the peoples of the world, and in doing so try to increase the chance for international peace and understanding.

I have had a very interesting trip. I have enjoyed that trip very much and I feel that I have been remarkably privileged in making new friends and in learning, I hope a little more understanding of the many peoples and many backgrounds which I didn't have before. That is not only a privilege but also a responsibility because it should be a help towards attaining greater understanding among ourselves and at the same time that understanding should be made to work for the theme that every woman, and I believe every man, is not only interested actually in creating an atmosphere in the world in which peace can grow. And so, Mr. President, I am glad if even today that I may be able to spend with you, you will give me some added understanding, to give you a little more feeling that there is friendship between our two countries and that together we can cooperate in the great world family of nations to help the peace of the world. [*Applause.*]

DECISIONS OF THE SUPREME COURT

[No. L-1678. November 10, 1950]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* ELEUTERIO CAÑA, defendant and appellant

CRIMINAL LAW; TREASON; BASIS OF DEGREE OF PUNISHMENT.—The court punishes the commission of treason on the basis of the seriousness of the treasonable acts, and of the presence or absence of atrocities on the victims, rather than on the presence or absence of aggravating or mitigating circumstances.

APPEAL from a judgment of the People's Court.

The facts are stated in the opinion of the court.

Antonio Montilla for appellant.

Assistant Solicitor General Manuel P. Barcelona and *Solicitor Jose G. Bautista* for appellee.

MONTEMAYOR, *J.:*

The appellant Eleuterio Caña was charged in the People's Court with treason under seven counts. After trial, he was sentenced to fifteen (15) years of *reclusión temporal*, with the accessories of the law, to pay a fine of ₱5,000, plus costs.

This is relatively an old case. The reason for the delay in the determination of the appeal is that it was first received in the court and later, because of the penalty imposed by the trial court, was indorsed to the Court of Appeals which apparently had jurisdiction over it. However, said Court of Appeals subsequently returned the case to this court because according to its resolution, it was of the opinion that the penalty applicable is *reclusión perpetua.*

For purposes of reference, we are reproducing the first five counts under which the People's Court found the appellant guilty:

"1. That said accused, Eleuterio Caña, with intent to give aid and or comfort to the enemy, wilfully, feloniously and treasonably acted and served as puppet Mayor of the Japanese in the municipality of Abuyog, Leyte, Philippines, from June to October, 1942, and from November, 1943, to August, 1944, and as such puppet Mayor he wilfully, feloniously and treasonably performed the following acts:

"(*a*) That he forced the people of Abuyog including government employees to dig trenches and foxholes and build stables for the Japanese Armed Forces;

"(*b*) That he told the people of Abuyog that the Americans would not return to the Philippines and that he was not afraid of the Filipino soldiers and guerrillas because the Japanese Armed Forces were behind him;

"(*c*) That the people of Abuyog must obey his orders and tell the guerrillas and their relatives to surrender; and

"(*d*) That he provided the Japanese soldiers with houses to live and ejected the Filipino civilians of Abuyog out of their houses to give room to the Japanese.

"2. That the herein accused, Eleuterio Caña, with intent to give aid and or comfort to the enemy, during his incumbency as puppet Mayor of Abuyog, Leyte, Philippines, especially in November, 1943, February and May, 1944, wilfully, feloniously and treasonably led, guided and accompanied Japanese patrols to the barrios of Abuyog to apprehend guerrillas, guerrilla suspects and their supporters and also to locate their hideouts.

"3. That during the months of April and May, 1944, the herein accused, Eleuterio Caña, with intent to give aid and/or comfort to the enemy, and taking advantage of his position as puppet Municipal Mayor of Abuyog, Leyte, did then and there wilfully, feloniously and treasonably force the people to harvest palay in the outlying farms, and did confiscate the palay taken therefrom, giving part of it to the Japanese soldiers.

"4. That the herein accused, Eleuterio Caña, with intent to give aid and or comfort to the enemy, during the time of his incumbency as puppet Municipal Mayor of Abuyog, Leyte, did then and there lead, guide and accompany patrols composed of Japanese and Constabulary soldiers to the barrios of Himara, Mahapalag, Union, Ogis, Mahayahay, Polahongon, all in the Layog District, and in the barrios of Bayabas, Dingle, Combos, Laray, Taleque, Habadyang, sitio Malasiga, sitio Maitum, parts of barrio Anglad, all of Hogasaan District, which patrols machinegunned and burned the houses in the above-mentioned places.

"5. That sometime during the month of July, 1944, the herein accused, Eleuterio Caña, with intent to give aid and/or comfort to enemy, during his incumbency as puppet Mayor of Abuyog, Leyte, wilfully, feloniously and treasonably informed the Japanese soldiers, that Basilio Pacatan who was then detained in the Japanese garrison of Abuyog as a guerrilla suspect, was the father-in-law of the guerrilla lieutenant named Nicolas Camintoy, and due to this information, said Basilio Pacatan was investigated, imprisoned and tortured by the Japanese soldiers for a period of over thirty days."

In the open court the accused admitted that he was and had always been a Filipino citizen.

The following facts are not disputed. In the last elections held before the last World (Pacific) War, Pedro Gallego and the defendant Eleuterio Caña were elected Mayor and Vice Mayor respectively, for the town of Abuyog, Leyte. When the Japanese forces went to Abuyog in June, 1942, they found the town without a Mayor because Gallego served as town chief executive only up to May, 1942, after which he went to the mountains and joined the guerrilla forces as a Mayor. The appellant being the vice mayor elect, was designated acting mayor by the provincial governor and he acted as such from June to October, 1942, when the Japanese garrison was removed from the town. Again, he acted as Mayor from November, 1943 when another Japanese garrison was stationed there, until August, 1944, when the garrison was withdrawn. The acts of treason of which he was accused were supposedly committed during his incumbency as Acting Mayor of Abuyog.

Under the first count, we find from the evidence that the defendant really recruited laborers to dig trenches, foxholes and air raid shelters around the Japanese garrison and in some streets, and to build stables for the Japanese cavalry horses. It has also been established that the accused had intervened in the commandeering of private dwellings to house the Japanese soldiers and officers stationed in the town, although there is evidence to the effect that rent was paid by said Japanese forces for the use of these houses. It was also proven that in the poblacion of Abuyog as well as in some barrios, such as Malagikay, Anlag and San Roque he called people to meetings where he made speeches in the Visayan dialect, telling the people that the real government was the one established and sponsored by the Japanese; that the Americans, will never come back to the Philippines because they were afraid of the Japanese forces who were stronger; that they must pay their taxes for the support of the Japanese sponsored government; and that he (defendant) was not afraid of the guerrillas because the Japanese Army was behind him.

Considering the fact that the accused was then acting as mayor of his town and under orders of the Japanese garrison commander, there is every reason to believe that defendant's act in recruiting laborers for the construction of trenches, foxholes, air raid shelters and stables for the use of the Japanese forces was in obedience to the wishes and orders of the Japanese commander. The same thing may be said of the commandeering of private houses. It is a matter of public knowledge, of which we may take judicial notice, that during the occupation, not infrequently, the enemy forces resorted to forced labor to fill in their military needs and also commandeered indiscriminately private houses not only for their accommodation but even for that of their civilian agencies, and that in such cases the services or intervention of the executive of the town were availed of, voluntarily or otherwise. Furthermore, we agree with the Solicitor General that these acts of collaboration, including his making speeches during the meetings called by him, indorsing the Japanese regime may be considered as political in nature and are covered by Amnesty Proclamation No. 51 of January 1, 1948, which he now invokes (People *vs.* Alvero, G. R. No. L–820). We may therefore discard count No. 1.

Under counts 2 and 4, is the following evidence:

Bonifacio Laher, barrio lieutenant of Anlag, Abuyog stated that on February 2,-1944, a Japanese patrol of about 80 soldiers arrived at his barrio, headed by the defendant Caña who was armed with a revolver. Caña called a meeting which about 60 residents attended. The accused made a speech in the Visayan dialect and asked the people about

the whereabouts of Major Gallego and Captain Landia of the guerrillas, saying that if they ever came with their forces, the residents should report the matter to him or to the Japanese garrison. He told his hearers that the Japanese government was the real government. The patrol spent the night in the barrio and the witness as lieutenant of the barrio was ordered by the accused to return the following morning to accompany the patrol. The next day, February 3rd, Laher accompanied the accused and the Japanese troops to the mountains. On reaching sitio Malasiga, the patrol passed by the houses of Gonzalo Ablanque and Rosendo Fortaleza, and the latter was called from his house and made to join the patrol to the house of Daniel Bolero where the soldiers ate pineapples and papaya. The defendant asked Bolero who were the owners of the two houses they had passed and on being informed that they belonged to Ablanque and Fortaleza, appellant exclaimed: "These are the houses where the guerrillas used to live." Thereafter, the defendant conversed with Capt. Mikawa who commanded the patrol, after which, Mikawa called two Japanese soldiers and ordered them to burn the houses of Ablanque and Fortaleza. At the time said two houses contained agricultural products of different kinds, including furniture and household goods. According to Fortaleza, he pleaded with the defendant not to burn his house, but the accused paid no attention to him and the two houses were burned to the ground.

Laureano Pacia, a captain of the guerrillas told the court that on February 3rd, a Japanese patrol of about 80 soldiers headed by the accused who was then armed with a revolver, arrived at the barrio of Anlag. The next day the patrol went to the barrio of Malagikay. Pacia followed the patrol at a safe distance in order to observe as per instructions of his superiors. He saw that in Malagikay the Japanese soldiers shot pigs and chickens for food. The defendant called the people to attend a meeting in front of the barrio school building at which meeting he spoke and asked about the guerrillas, particularly Major Gallego and Captain Landia. He urged his hearers to fight them (the guerrillas) if they ever came and to report their presence to the poblacion. After the defendant, a lieutenant of the Philippine Constabulary also spoke.

About these doings of the defendant and the Japanese patrol in Malagikay, Pacia was corroborated by Major Gallego who was with Pacia observing what was happening and listening to the speeches, particularly that of the defendant.

Major Gallego in his testimony also told the People's Court that on May 27, 1944, he saw the defendant Caña armed with a revolver at the head of a Japanese patrol composed of about 80 soldiers in the barrio of San Roque, Abu-

yog. They shot pigs and chickens for food and in the afternoon, they rang the school bell and assembled the people, and at the meeting the defendant made a speech in the Visayan dialect, asking the people if there were any guerrillas in the vicinity, telling them that if they (guerrillas) came, the people should not give them food so that they would starve, and to report their presence to the town so that the Japanese forces could come and catch them. He urged the people to help the government, the real government sponsored by the Japanese, and not to wait for the Americans who will never come back. With sarcasm he told the people that if they were still interested in the Americans, they had better swim across the Pacific Ocean to get to them in America. At the time that the accused spoke, there were no Japanese around him. In his testimony about the arrival of the Japanese patrol in San Roque and the speech of the appellant, Gallego was corroborated by Felix Balga who added that the defendant in his speech said that to show that the government sponsored by the Japanese was the true government, he (defendant) was accompanying the Japanese patrol.

Pelagio Elmeda stated to the court that on February 2, 1944, he was at his post at barrio Bayabas on duty as captain of the Volunteer Guards attached to the guerrillas under orders of Captain Landia. On that date, he saw a Japanese patrol of about 80 soldiers headed by the accused pass by the said barrio of Bayabas, apparently the same patrol that later went to the barrio of Anlag and still later to the barrio of Malagikay on February 4th. The accused was then carrying a revolver. When the patrol saw no people in the said barrio the soldiers burned all the five houses in the vicinity. The owners of said houses were then in the mountains, having evacuated thereto because of fear of the Japanese.

Under count 3, Filomeno Tupa and Marcial Costen testified to the effect that the defendant as Mayor asked the people in the poblacion of Abuyog belonging to the neighborhood associations to go out to the farms and under the protection of Japanese soldiers, harvest palay therefrom; that one half of the harvest was given to the harvester; one fourth to the municipality and the remaining one fourth to the Japanese garrison to feed its cavalry forces. The evidence on this point, however, further shows that almost invariably, the owners of these lands had evacuated to the mountains, and that said owners were afraid to harvest their own palay for fear of the Japanese soldiers who might suspect them of harvesting said palay to give to the guerrillas who frequented the farms. There is reason to believe and conclude from the evidence that these harvests of palay directed by the defendant were not made with the intention of aiding the enemy but rather to avoid loss or

prevent the ripe palay from rotting in the fields and to utilize the harvest to aid the people. As already stated, one half of the harvest was given to the people who effected the harvest and one fourth was given to the municipality, said portion according to the uncontradicted evidence for the defense having been utilized to feed the indigent people, and that a portion of it was sent to the capital (Tacloban) presumably, for the same purpose of aiding the poor in the province.

It will be remembered that during the occupation there was no importation of rice in order to make up for the deficiency, our production being insufficient for the needs of the population, and that if the palay crop belonging to those who had evacuated to the mountains were not harvested the critical food situation would have worsened. It is not difficult to see that members of the neighborhood associations living in the poblacion of Abuyog and needing rice for their consumption, may have even suggested to the defendant to harvest the palay in the outlying districts under the protection of the Japanese soldiers against the guerrillas. Among the farms where palay was then growing and ready for harvest there must have been some which belonged to these very members of neigborhood associations living in the poblacion who, fearing that the guerrillas would interfere with the harvest of their own palay, asked for protection from the Japanese forces.

As to the one fourth portion of the harvest given to the Japanese garrison, undoubtedly, said portion was given pursuant to the wishes and orders of said garrison for its needs and also in return for the protection services rendered by its soldiers during the harvest. We find that under the circumstances, the defendant cannot be held liable under this count No. 3.

Under count 5, Basilio Pacatan, 69 years of age, stated in court that on June 1, 1944, a Japanese patrol composed of about 44 soldiers headed by the defendant who was then armed with a revolver came to the barrio of Quarry, Abuyog and found him pasturing his carabao. Some of the soldiers in the patrol caught him, tied his hands behind his back and then took him to the main body of the patrol where the defendant was. He was asked about Capt. Landia and Capt. Nicolas Camintoy, his (Pacatan's) son-in-law, both of the guerrillas. He told them that when Col. Kangleon passed by that place he took some of the residents with him, presumably including Camintoy. The defendant Caña told Pacatan that until his son-in-law Nicolas, surrendered he (Pacatan) will be kept as a hostage. After being slapped and kicked by the Japanese soldiers he was taken to the garrison in the poblacion and imprisoned there for a month and a half. As regards his arrest and his being tied and taken to the po-

blacion, Pacatan was corroborated by his stepson Pio Balida who stated that in the Japanese patrol there were four Filipinos, among them the defendant Caña. He said that he saw all this because at the time he was with his stepfather Pacatan altho at some distance from him.

In connection with the imprisonment of Basilio Pacatan in the Japanese garrison in the poblacion of Abuyog, Filomeno Tupa and Marcial Costen in their testimonies said that the accused had once stated within their hearing that he would oppose the release of Basilio Pacatan unless his son-in-law, Nicolas Camintoy, a captain in the guerrilla first surrendered, and that when a delegation composed of leaders of neighborhood associations went to petition the Japanese captain for the release of Pacatan, saying that he was a good man, the defendant who was present voiced his objection to the release unless his (Pacatan's) guerrilla son-in-law, Nicolas Camintoy, first surrendered, as a result of which Pacatan's release was refused by the Japanese officer. It was further stated that the defendant enjoyed the confidence of the Japanese officers, in proof of which, he had previously obtained the release of three prisoners, C. Tan, Barcelo and Briones who had sons in the guerrilla forces and who promised to have said sons surrender to the Japanese.

In his defense, the appellant with his witnesses tried to prove that although he accompanied the Japanese patrols in their reconnaissance trips to the barrios, he did so not of his own free will but under compulsion by the Japanese officer of the garrison. He also said that he acted merely as interpreter of the Japanese officer who spoke at the meetings held in the barrios. The People's Court did not believed this claim of the defendant and we find nothing in the record to warrant correcting and disturbing this mental attitude and action of the People's Court. There is ample evidence to show that when appellant spoke in the barrios as head of the Japanese patrols, he did not act as a mere interpreter but that he made his own speeches. Many times there were no Japanese around when he spoke because the members of the patrol were either going around the barrio or the houses evidently checking up and looking for guerrillas, or doing things looking toward their accommodation and shelter for the night or preparing their meals from the pigs and chickens they had previously shot. And the vehemence or apparent sincerity of the accused in his speeches wherein he urged the people to support the municipal government which he headed, to report the presence of guerrillas in the barrios and to abandon all hope of the return of the Americans because they were afraid of the Japanese soldiers, sufficiently shows that he went with the patrols voluntarily and of his own free will. He was really determined to suppress the guerrilla move-

ment in his locality as may be inferred from his speeches but also from his strong opposition to the release from the garrison of Basilio Pacatan unless the latters's son-in-law first surrendered. His action in telling the Japanese officer of the patrol in the sitio of Malasiga that the houses of Ablanque and Fortaleza had been occupied by the guerrillas, followed by his private conference with said japanese officer after which said two houses were set on fire and burned to the ground despite the pleas of Fortaleza with him, fortifies this belief and finding.

Considering all the evidence submitted, we agree with the People's Court and the Solicitor General that appellant is guilty under counts 2, 4 and 5. Ordinarily, in the absence of aggravating or mitigating circumstances, the penalty should be imposed in its medium degree, namely, *reclusión perpetua* as opined by the Court of Appeals. However, taking a broad view of the case, we are inclined to impose a lighter penalty as did the People's Court. We must bear in mind that treason is not an ordinary and everyday offense which must be considered and punished according to the presence or absence of aggravating and mitigating circumstances provided for in the Revised Penal Code. It is a very serious crime committed during war by one who, forgetting his loyalty and oath of allegiance to his own country, aids the enemy and gives it aid and comfort. The amount or degree of said aid or comfort given the enemy as well as the gravity of the separate and distinct acts of treason committed by the accused, rather than the circumstances aggravating or mitigating attending its commission, determine the degree of the penalty to be imposed. This court as a rule, has imposed the death penalty upon treason indictees proven not only to have aided the enemy but also while giving such aid, to have either tortured or killed their own countrymen, and even then, only when the necessary number of votes was secured. Where the necessary number of votes could not be obtained even when the defendant was guilty of killing or torturing his own countrymen, the penalty imposed has been *reclusión perpetua*. Where the acts of treason by a defendant in a treason case, consist in acting as a spy for the Japanese, as a result of which guerrillas or guerrilla suspects were tortured or killed by the Japanese forces themselves without any direct participation by the defendant, the punishment imposed has invariably been *reclusión perpetua*, that is to say, the penalty for treason in its medium period. And when the acts proven against an accused has been acting as informer and spy for the enemy resulting merely in the temporary confinement of guerrilla suspects, we have imposed the penalty in its minimum, namely, *reclusión temporal*. In other words, we have punished the commission of treason on the basis of the seriousness of the treason-

able acts, and of the presence or absence of atrocities on the victims, rather than on the presence or absence of aggravating or mitigating circumstances. Here, there has been no killing, not even torture of prisoners, at least not on the part of the appellant. The People's Court may have been imbued with this same attitude and viewpoint when it imposed an imprisonment of 15 years without making any reference to the existence of aggravating or mitigating circumstances. We might add that the fact that the appellant has been in jail since the beginning of the year 1946 when he was first indicted, inclines us to take a liberal and benign view of his case.

Finding no reversible error in the decision appealed from, the same is hereby affirmed, with costs against appellant.

Parás, Feria, Pablo, Bengzon, Tuason, Reyes, and *Bautista, JJ.,* concur.

Judgment affirmed.

[Nos. L–2881–3. Noviembre 14, 1950]

EL PUEBLO DE FILIPINAS, querellante y apelado, *contra* ATANACIO DAÑO, PEDRO DE SAGUN, y CLEMENTE ORTIZ, acusados y apelantes.

HERMENEUTICA LEGAL; AMNISTA; PROCLAMA NO. 76; AUTORIDADES DEBIDAMENTE CONSTITUTUÍDAS; GOBERNADOR DE LA PROVINCIA.—El gobernador legalmente elegido de una provincia y en el ejercicio de sus funciones es una autoridad debidamente constituída, bajo los términos de la proclama de amnistía No. 76.

APELACIÓN contra una sentencia del Juzgado de Primera Instancia de Batangas. Enriquez, J.

Los hechos aparecen relacionados en la decisión del Tribunal.

D. Numeriano U. Babao en representación de los apelantes.

El Procurador General Auxiliar Sr. Guillermo E. Torres y *el Procurador Interino Sr. Jose Capangyarihan* en representación del Gobierno.

PABLO, *M.:*

En 2 de febrero de 1948, a eso de las ocho pasadas de la noche, los tres acusados, todos armados y con la cara enmascarada, ordenaron que se parase un *jeep* con la intención de colarse en él y tener transportación gratuita hasta el barrio Subic, Lemery, Batangas; pero como vieran que los ocupantes eran el Dr. De Leon, su esposa y otros, dejaron libre el coche y se fueron al barrio de Bucal.

Mientras estaban cenando en una tienda en dicho barrio, con las armas colgadas en el tabique, fueron puestos bajo arresto por el jefe de policía del pueblo que llegó alli

por casualidad. Los arrestados no opusieron resistencia, acataron la órden del jefe y fueron conducidos a la cárcel municipal. Contra ellos se presentó más tarde una querella por bandolerismo y a cada uno por posesión ilegal de armas de fuego.

En 21 de junio de 1948, el Presidente de Filipinas expidió la Proclama No. 76, concediendo amnistía a los miembros de la organización Hukbalahap que se presentaren con todas sus armas y municiones a "las autoridades debidamente constituídas de la Republica de Filipinas" dentro de 20 días.

El 8 de julio del mismo año, dentro del periodo fijado, los acusados se presentaron al gobernador de la provincia, Sr. Leviste, presentando sus certificados como miembros de Hukbalahap, exhíbitos 1, 2 y 3 firmados por Ruben V. Tolentino *alias* Bulaklak, Capt. Inf., Overall Commander, y exhíbitos 10, 11 y 12, firmados por Luis M. Taruc, Commander-in-Chief of the Hukbalahap, Vice-President of the National Peasants Union (PKM), y el gobernador provincial expedió a su favor certificados de presentación de sus personas y armas y municiones, exhíbitos 4, 5 y 6.

En julio 27, los apelantes, por medio de su abogado, presentaron moción de sobreseimiento de las causas de bandolerismo y posesión de armas de fuego, fundándose en los exhíbitos 1, 2, 3, 4, 5, 6, 10, 11 y 12, y queriendo así acogerse a las disposiciones de la proclama de amnistía. El juzgado denegó la moción y, después de la vista conjunta de los cuatro expedientes, les absolvió en cuanto al delito de bandolerismo; pero condenó a cada uno de ellos, por posesión ilegal de armas de fuego, a sufrir cinco años de prisión y costas, porque no se presentaron a las autoridades debidamente constituídas que—según el juzgado *a quo*—son los miembros del "processing team created by the Philippine Constabulary in those provinces where dissident elements exist." Los tres acusados apelan contra esta condena que les ha sido impuesta, alegando que el juzgado *a quo* incurrió en error al declarar que el gobernador provincial de Batangas no es una autoridad debidamente constituída en los terminos de la proclama de amnistía No. 76. La interpretación del juzgado *a quo* es contraria al espíritu y a la letra de la proclama. Los miembros del "processing team" de la constabularia no son más que agentes de autoridad. No son autoridad. Si no hubiese "processing team" en una localidad entonces un Huk no tendría oportunidad de deponer su hostilidad contra la Republica, presentándose, por ejemplo, a un alcalde o a un teniente del barrio que es un agente de la autoridad. La decisión del juzgado *a quo* frustra, obstruye, dificulta la rendición de los disidentes en vez de facilitarla. Eso no fué la intención del Presidente. La obra de pacificación debe ser fomentada.

El Procurador General, en su alegato, sostiene que el gobernador provincial está incluido en "the duly constituted authorities" de que habla la proclama de amnistía y, por tal motivo, recomienda la revocación de la sentencia condenatoria y la absolución de los acusados. Estamos conformes con esta opinión.

El gobernador provincial es el primer funcionario ejecutivo del gobierno provincial, elegido por los electores de la provincia. Como tal autoridad ejecutiva de la provincia es su deber cuidar de que las leyes se ejecuten fielmente por todos los funcionarios en la misma y, de conformidad con la ley, ejercer inspección general sobre el gobierno de la provincia y de los municipios y otras subdivisiones politicas (art. 2082, Código Administrativo Revisado). Este cuerpo legal no define autoridad; pero el artículo 152 del Código Penal Revisado dice así:

"ART. 152. *Autoridad—Quién se reputa como tal.*—Para los efectos de los artículos anteriores y de las demás disposiciones de este Código, se reputará autoridad al que por si o sólo como individuo de alguna corporación, junta o comisión gubernamental o tribunal ejerciere jurisdicción propia."

El juez de paz es autoridad, Estados Unidos *contra* Garcia (20 Jur. Fil., 367). Un presidente municipal es autoridad, Estados Unidos *contra* Dirain (4 Jur. Fil., 550), y Pueblo *contra* Guimban (39 Jur. Fil., 83). El alcalde de Baguio es autoridad, Pueblo *contra* Imson y otro (45 Gac. Of., 3838). Un alcalde en España es autoridad, Sentencias del Tribunal Supremo de España de 6 de mayo de 1876 y 16 de enero de 1880. Si el jefe ejecutivo de un municipio de Filipinas o de una ciudad es autoridad, con mayor razón el jefe ejecutivo de una provincia tiene que ser también autoridad con jurisdicción territorial más extensa.

"'Authorities' in its governmental sense, * * *, as meaning a person or persons, or a body, exercising power or command; the body of persons exercising power or command; those upon whom the people have conferred authority." (7 C. J. S., 1292.)

"The word 'authorities', in the constitutional provisions that local officers shall be elected by the electors or appointed by such authorities thereof means those upon whom the people have conferred authority, not their agents' agents. The words employed in the Constitution are taken in their natural and popular sense, unless they are terms of art, in which case they are to be taken in their technical signification. Black Const. Law, 66. An 'authority' means a person or persons or a body exercising power or command, Imperial Dict.; Cent. Dict.; the body of persons exercising power or command. Rathbone *vs.* Wirth, 40 N. Y. S., 535, 555; 6 App. Div., 277, citing Murray's Eng. Dict." (4 Words & Phrases, 829, 1940 ed.)

Creemos que al emplear las palabras "autoridades debidamente constituídas," el Presidente de la Republica ha tenido en cuenta el significado que la palabra "autoridad" tiene en Filipinas, América y España, según los prece-

dentes citados. Declaramos que el gobernador legalmente elegido de una provincia y en el ejercicio de sus funciones es una autoridad debidamente constituída.

Con revocación de la sentencia, se absuelve a los apelantes con las costas *de oficio*.

Parás, Feria, Bengzon, Padilla, Tuason, Montemayor, Reyes, y *Jugo, MM.*, están conformes.

Se revoca la sentencia.

[No. L-4129. November 14, 1950]

TEODORO GABOR Y ORO, petitioner, *vs.* THE DIRECTOR OF PRISONS, respondent

PARDON; AUTHORITIES TO GRANT PARDON DURING MILITARY OCCUPATION; COMMANDER IN CHIEF OF JAPANESE IN PALAWAN HAD NO POWER.—The Supreme Court has repeatedly ruled that the only competent authorities having the power to pardon during the Japanese occupation, were the Commander in Chief of the Imperial Japanese Military forces and the President of the so-called Republic of the Philippines, and consequently the Commander in Chief of the landing Japanese forces in Palawan had no power to authorize the pardon or reduction of sentence of a prisoner.

ORIGINAL ACTION in the Supreme Court. Habeas corpus.

The facts are stated in the opinion of the court.

Petitioner in his own behalf.

Assistant Solicitor General Ruperto Kapunan, Jr. and *Solicitor Felicisimo R. Rosete* for respondent.

FERIA, *J.*:

This is a petition for *habeas corpus* filed by Teodoro Gabor y Oro, who alleges therein, among others, the following:

That on December 2, 1940, he was convicted by the Court of First Instance of Maasin, Leyte, in criminal case No. 5268:

(*a*) For *homicide;* From 2 years, 4 months and 1 day of *prisión correccional,* to 8 years and 1 day of *prisión mayor,* to pay an indemnity of ₱2,000, with subsidiary imprisonment in case of insolvency, and costs.

(*b*) For *frustrated parricide*: 8 years of *prisión mayor,* to accessories of the law, and costs.

That he began to serve the sentence on December 2, 1940, and was granted a reduction of one-fifth of his sentence for loyalty.

That "taking into account the maximum good conduct time allowances, and other credits, to which the petitioner is entitled under Acts Nos. 2489 and 3815, he has fully and completely served out his principal penalties in the

two criminal cases in which he had been convicted, with only the subsidiary imprisonment corresponding to the indemnity of ₱2,000, which the petitioner is unable to satisfy in kind, remaining to be served."

That he is being illegally and unlawfully restrained, imprisoned and deprived of liberty by the respondent; and "the illegality and nullity of the petitioner's present confinement lies in the fact that he is being held and detained to serve the subsidiary imprisonment imposed upon him with the principal penalty in the homicide case, such imposition being contrary to law and so imposed with grave abuse of discretion and with jurisdiction on the part of the Honorable Trial Court, inasmuch as section 3, article 39, of the Revised Penal Code, expressly provides 'When the principal penalty imposed is higher than *prisión correccional,* no subsidiary imprisonment shall be imposed upon the culprit.' "

The respondent in his return, which must be considered as *prima facie* evidence according to section 13, Rule 102, Rules of Court, evidence not contradicted by the petitioner, shows the following:

That by excluding the subsidiary imprisonment, the petitioner is subject to the following penal sentence:

(*a*) For the homicide:
A minimum of 2 years, 4 months and 1 day and a maximum of 8 years and 1 day.
(*b*) For the frustrated parricide:
A definite sentence of 8 years.

5. That by authority of the Japanese Commander in Chief in Palawan (Annex 3 hereto attached), the Superintendent of the Iwahig Penal Colony on June 4, 1942, reduced by one-fifth the sentences imposed on the petitioner (Annexes 4 and 4–A, hereto attached) and said sentences as reduced became as follows:

(*a*) For the Homicide:
Minimum—1 year, 10 months and 13 days
Maximum—6 years, 4 months and 25 days
(*b*) For the frustrated Homicide:
Definite—6 years, 4 months and 24 days

That with good conduct time allowance his minimum sentence expired on December 2, 1942, his maximum expired on April 26, 1947, and both his minimum and definite sentence will expire on January 20, 1953.

And that conceding further time allowance to the petitioner by reason of his having qualified as a trusty or penal colonist beginning October 13, 1943, it results that on said date he had already served his minimum sentence, and his maximum sentence expired on December 5, 1946, and both his maximum and definite sentences will expire on February 17, 1952.

The petitioner takes it for granted that the reduction of one-fifth of his sentence for loyalty was made in accordance with law, and contends that the sentence he is now serving is for subsidiary imprisonment, which is null and void, according to the petitioner; because the principal penalty imposed by the court in the case for homicide is *prisión mayor* which is higher than *prisión correccional*, and section 3, article 37, of the Revised Penal Code, provides that "when the principal penalty imposed is higher than *prisión correccional* no subsidiary imprisonment shall be imposed upon the culprit."

On the other hand the respondent admits that the subsidiary penalty imposed upon the petitioner in the above mentioned case is null and void, and for that reason the petitioner has not been made to serve said penalty; but contends that the reduction of one-fifth of the petitioner's sentence by the Superintendent of the Iwahig Penal Colony on June 4, 1942, is null and void. Because the reduction was made not in accordance with the provisions of articles 98, 99 and 158 of the Revised Penal Code, but under the authority given by the Japanese Commander in Chief in Palawan to said superintendent to grant pardon, parole or reduction of the inmates' sentences who have shown excellent conduct of loyalty and devotion to duty. And the respondent argues that the Japanese Commander in Chief of the Japanese forces in Palawan had no power to authorize the Superintendent of the Iwahig Penal Colony to make such reduction, because a military occupant is enjoined to respect the municipal laws prevailing in the occupied territory.

The authority granted upon the Superintendent of the Iwahig Penal Colony by the Commander in Chief of the Imperial Japanese landing forces in Palawan, did not repeal or modify articles 98, 99 and 158 of the Revised Penal Code, because it was applicable only to the inmates of said colony. It was rather a delegation to the superintendent of the power or authority to pardon or parole, since reduction of a prisoner's sentence is a partial pardon. The question in issue in the present case is whether the Commander in Chief of the Imperial landing forces in Palawan had power to pardon the petitioner's sentence imposed by the civil courts of the Philippine Government in that penal colony.

We have already ruled in the cases of Sameth *vs.* Director of Prisons (43 Off. Gaz., pp. 146, 150); Caraos *vs.* Daza (43 Off. Gaz., p. 462), and Botuyan *vs.* Director of Prisons, (46 Off. Gaz., p. 65) that the only competent authorities having the power to pardon during the Japanese occupation, were the Commander in Chief of the Imperial Japanese military forces and the President of the so-called Republic of the Philippines, and consequently the Com-

mander in Chief of the landing Japanese forces in Palawan had no power to authorize the pardon or reduction of the sentence of the petitioner.

In view of the foregoing, the petition for *habeas corpus* is denied. So ordered.

Parás, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo, and *Bautista, JJ.*, concur.

Petition denied.

[No. L–2954. November 16, 1950]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* ALEJANDRO ALMAZORA, defendant and appellant

CRIMINAL LAW; TREASON; MEMBERSHIP TO MAKAPILI; ENLISTMENT OR APPOINTMENT UNNECESSARY.—Appointment to enemy forces need not be proven by any enlistment or appointment, but may be inferred from circumstances. The doctrine laid down in People *vs.* Alitagtag (45 Off. Gaz., 715), reiterated.

APPEAL from a judgment of a Court of First Instance of Laguna. Panlilio, J.

The facts are stated in the opinion of the court.

Mariano Manahan, Jr. for appellant.

Solicitor General Felix Bautista Angelo and *Solicitor Augusto M. Luciano* for appellee.

MONTEMAYOR, *J.:*

This is one of several treason cases originally filed in the People's Court but which, with the abolition of said Tribunal, were subsequently indorsed to the Court of First Instance of Laguna where the acts of treason charged were allegedly committed. The appellant Alejandro Almazora was found guilty and sentenced by the Court of First Instance of Laguna to fourteen (14) years, eight (8) months and one (1) day of *reclusión temporal* with the accessory penalties provided by law, and to pay a fine of ₱5,000, with costs. Half of the period of his provisional imprisonment was credited to him.

Because of the nature of the penalty imposed, the appeal should ordinarily go to the Court of Appeals. Appellant Alejandro Almazora however, was tried with several treason indictees in a mass trial altho under different and separate indictments. The evidence presented during the mass trial applies to all the treason defendants including the appellant. What is more, the acts of treason charged against the several accused were supposed to have been committed on or about the same time or occasion. At least one of these defendants was sentence to *reclusión perpetua* and his appeal including the record of the evidence naturally came to this Tribunal. That is the reason why the appeal of Alejandro Almazora also found its way to

this court, under the provisions of section 17 of Republic Act No. 296 otherwise known as the Judiciary Act of 1948.

The appellant was charged under five counts. During the trial no evidence was presented to substantiate counts 4 and 5 which were apparently abandoned by the prosecution.

The defendant has admittedly always been a Filipino citizen, a native and resident of the Philippines.

Under the first count, the defendant is accused of having acted as informer or agent of the Japanese forces, going with them and participating in their raids, and of having joined and served in the organization "Makabayang Katipunan Ng Mga Pilipino" otherwise known as the Makapili. To prove this count, three witnesses Federico Baylon, Tranquilino Martinez and Briccio Malitic testified to the effect that sometime in December, 1944, a chapter of the Makapili organization was established in Calauan, Laguna by one Proceso Delgado; that the accused became a member of that organization which was composed mostly of Ganaps and Sakdalistas; that some members including the accused, armed with rifles used to accompany Japanese soldiers in raids against guerrillas and that on several occasions, the accused and his fellow Makipilis actually arrested suspected guerrillas and turned them over to the Japanese. After examining the evidence we agree with the trial court that the charge under the first count was duly proven. We, however, disagree with the lower court when it held that although the evidence of the prosecution is definite, conclusive and convincing that the accused together with former members of the Sakdalista and Ganap organizations in Calauan attached themselves to and cooperated with the enemy invaders, and that armed with a rifle he took direct part in raids against the guerrillas conducted by the Japanese soldiers, there is no direct and conclusive proof that he was actually appointed or inducted into the Makapili organization, and that consequently, the accused could not be considered as having joined the Makapili organization. In the case of People *vs.* Alitagtag (45 Off. Gaz., 715), we have held that appointment to enemy forces need not be proven by any enlistment or appointment, but may be inferred from circumstances. We are satisfied that from the acts of the accused in being seen frequently at the headquarters of the Makapili organization at Calauan, associating with well-known Makapili members, joining them in their raids against the guerrillas either by themselves or in company with Japanese soldiers, being armed with a rifle like the other Makapili members and otherwise conducting himself like any other member of that military organization, we can infer and find as we do find that he joined the Makapili organization.

Under count 2, the appellant is charged with having taken part on December 23, 1944, in the arrest in Calauan, Laguna of Norberto Ungkiatco who was suspected of being a guerrilla and who after the arrest was taken to the Japanese garrison where he was confined and tortured. To established this count, Matias Mendoza testified to the effect that as a member of the guerrillas, he had orders to go to the poblacion of Calauan on December 23, 1944, to observe; that he entered a movie house where he was arrested by a group of armed men composed of appellant Alejandro Almazora and other Makapili like his (appellant's) brother Marcelo Almazora, Proceso Delgado and others; that on the way to the Japanese garrison he witnessed the arrest of Norberto Ungkiatco by the same group of Makapilis; that he and Ungkiatco were taken to Makalauang Spring, then being used as a garrison by the Japanese soldiers though at the time there were no Japanese soldiers there; that at the said Makalauang Spring they were investigated by the same group, especially by Proceso Delgado. After five days Mendoza was released.

Ungkiatco stated that he was a member of the R.O.T.C. guerrillas; that he was arrested at the time and in the manner testified to by Mendoza, by the group composed of the appellant, his (appellant's) brother Marcelo Almazora, Proceso Delgado and others; that after being taken to Makalauang Spring he was investigated and tortured by Proceso Delgado; that as a result of the clubbing and torture to which he was subjected, he lost some of his teeth and one of his ribs was fractured, and that he was released after a week of confinement. We also agree with the trial court that count No. 2 was proven.

Under count 3, which refers to the arrest of Andres Ramos, Aurora Azucena told the court that on January 15, 1945, a group of armed Makapilis composed of the appellant Alejandro Almazora, his brother Marcelo Almazora, Proceso Delgado and a few others, all armed with rifles and in company with Japanese soldiers went to her house in the barrio of San Isidro, Calauan; that Proceso Delgado ordered her husband Andres Ramos to come down his house, which he did; that Proceso Delgado immediately struck him on the back of the head with the butt of his revolver, inflicting a wound; that her husband, Andres Ramos, was taken away by the group and was thereafter never heard from.

Crispin Aniceta stated in court that on the same occasion he was also arrested by the same group which included the appellant Alejandro Almazora, all of the members of which were armed with rifles; that he (Crispin) witnessed the arrest of Andres Ramos; that he and Andres Ramos and other barrio residents who had likewise been arrested were

taken to the convent of the town of Calauan which was then occupied by the Makapilis and their families; that after some investigations Crispin was released but Andres Ramos was retained in the convent and was never heard from up to the date of the trial.

The trial court equally found that count 3 was duly proven. We agree with the Laguna court that two witnesses have satisfactorily established the arrest of Andres Ramos on January 15, 1945, by a group composed of the appellant and other Makapilis all of whom were armed; that after the arrest, Andres Ramos was taken to the convent in the poblacion then occupied by Makapilis where he was detained, and that thereafter Ramos did not return to his house and was never heard from.

The appellant was the only witness presented to prove his innocence. He denied the charges made against him and said that he was not at the places and on the occasions where and when he was alleged to have helped in the arrest and investigations of guerrilla suspects like Matias Mendoza, Norberto Ungkiatco, Andres Ramos and Crispin Aniceta. He equally denied that he ever joined the Makapili organization. He claims that the witnesses who testified against him hated his father who was a Ganap before the war and that after his death, which occurred while he was confined in Bilibid awaiting trial as a treason indictee, said witnesses tried to heap all their animosity, hatred and feeling of revenge on him (appellant) as the son of the man they hated. It has been proven however that the affidavits of these witnesses who testified against the appellant had been made and filed long before the death of his father, so that it cannot be true that in testifying against the accused they merely wanted to send him to jail in place of his father, the object of their hatred, who was already dead. The trial court did not believe the defense of the appellant. Neither are we inclined to give it serious consideration. We quote a pertinent portion of the decision of the trial court:

"The court had the opportunity to watch the witnesses for the prosecution, while they were testifying, and finds no reason to doubt their testimony.

"The acts of the defendant, conclusively established by the evidence presented, constitute both adherence to the enemy and overt acts of treason. The defense of alibi put up by the accused cannot be taken seriously. As between his sole, unsupported declaration, and the logical, straight-forward, and unbiased testimony of the witnesses for the prosecution, the choice is not hard to make."

In conclusion, we find the appellant guilty of the charge of treason. The Solicitor General recommends the affirmance of the decision appealed from. Finding no reversible error in it, the same is hereby affirmed with costs.

Parás, Feria, Pablo, Bengzon, Padilla, Tuason, Reyes and *Jugo, JJ.*, concur.

Judgment affirmed.

[No. L-4117. November 16, 1950]

NAPOLEON LANDICHO, petitioner, *vs.* BIENVENIDO A. TAN, Judge of First Instance of Rizal, Pasay City Branch, respondent.

CRIMINAL PROCEDURE, RULE OF; APPEAL; HOW PERFECTED; 15-DAY PERIOD TO BE COUNTED FROM RENDITION OF JUDGMENT.—One who desires to appeal in a criminal case must file a notice to that effect within fifteen days from the date the decision is announced or promulgated to the defendant. And this can be done by the court either by announcing the judgment in open court, or by promulgating the judgment in the manner set forth in section 6, Rule 116 of the Rules of Court, which does not require that a copy of the decision be served on the parties in criminal cases. This is only required in cases decided by the Court of Appeals and the Supreme Court.

ORIGINAL ACTION in the Supreme Court. Mandamus with injunction.

The facts are stated in the opinion of the court.

Adolfo Garcia for petitioner.
Respondent judge in his own behalf.

BAUTISTA ANGELO, *J.:*

This is a petition to compel respondent to admit the appeal interposed by petitioner and to enjoin the former from executing the judgment he rendered against the latter on January 9, 1950.

Napoleon Landicho was charged in the Court of First Instance of Rizal with the crime of *estafa*. After trial, the respondent Judge, Hon. Bienvenido A. Tan, then presiding the court, then and there found the defendant guilty and sentenced him to one (1) year, eight (8) months and one (1) day of imprisonment, to indemnify the offended party in the amount of ₱435 and to pay the costs, without prejudice to writing a more detailed decision. Thereafter, counsel for the defendant manifested in open court that he was appealing from the decision, and requested the court to fix the appeal bond for his temporary release. The respondent judge fixed the bond at ₱5,000, which was reduced to ₱3,000 upon request of counsel. The bond having been perfected, the defendant was released on Jaunary 10, 1950.

On January 24, 1950, the fifteenth day from the promulgation of the oral judgment, defense counsel caused a written notice of the appeal to be filed with the clerk of court, through one Jovencio Alfaro. When Alfaro reached the office of the clerk of court at 3:30 o'clock in the afternoon, he found the office closed, and so he went to the Office of the City Attorney, which is just adjacent, to serve the copy corresponding to this official, entrusting the original to a clerk who gave him (Alfaro) the assurance that it would be filed with the clerk of court the next morning. In the meantime, copy of the written decision was sent to the defendant by registered mail and was received by the latter

on January 26, 1950. On August 25, 1950, the defendant was notified through his bondsman to appear in court on September 9, 1950 for the promulgation of the decision, and it was then that he learned for the first time that his written notice of appeal was never filed with the clerk of court. Believing that the steps he had taken are sufficient to perfect his appeal, defendant filed this petition praying that he be granted the relief already pointed out above.

The only question to be determined in this case is whether the petitioner has perfected his appeal as required by the Rules of Court, or whether he has already lost his right to appeal as claimed by respondent.

It appears that right after trial on January 9, 1950, the respondent judge passed judgment upon the defendant in open court without prejudice to writing a detailed decision. This he did and a copy of the decision was served upon the defendant. This copy was received on January 26, 1950. On January 24, 1950, the fifteenth day from the promulgation of the oral judgment, defendant caused a written notice of appeal to be filed with the clerk of court, which he failed to do, because at about 3:30 o'clock in the afternoon, his office was already closed. Although this was denied by the clerk of court, however, we are inclined to believe the statement of Jovencio Alfaro, the messenger, because of the undisputed fact that he served the copy for the City Attorney at 3:55 in the afternoon of the same day, whose office is just adjacent to that of the clerk of court. If Alfaro was able to serve that copy on time, and he went there with the only purpose of filing the notice of appeal, there is no valid reason why he could not file on time the notice of appeal with the clerk of court. Considering that the inability of the defendant to file the notice of appeal cannot be attributed to his fault, and the fact that right after the promulgation of the oral judgment he manifested in open court through his counsel, his desire to appeal from the decision, and in fact he put up the necessary appeal bond for his provisional liberty, we hold that, in the light of the concurring circumstances, the defendant should be considered as having perfected his appeal within the reglamentary period. (Section 6, Rule 118, of the Rules of Court.) The attention of the Clerk of Court of Rizal should be called to the necessity of observing office hours more scrupulously in order that the rights of the litigants may not be prejudiced and the incident that has given rise to this petition may be avoided.

We have noticed that a copy of the written decision of the respondent judge was sent to the defendant by registered mail and was received by him on January 26, 1950, and subsequently, or on February 7, 1950, defendant filed a motion for a new trial which was denied by the court

for lack of jurisdiction. Undoubtedly this step was taken by the defendant on the belief that the period of fifteen days within which he may appeal from the decision should be counted from the date he received copy of the decision. We believe it to be opportune to clarify this matter so as to avoid misinterpretation of the rule regarding the manner of how an appeal should be taken.

According to section 6, Rule 118, of the Rules of Court, an appeal must be taken within fifteen days from the rendition of the judgment or order appealed from. The words "rendition of the judgment" have given rise to some misunderstanding which should be clarified. Do those words mean that the period of fifteen days should be computed from the date the decision is signed by the judge, or from the date copy of the decision is served on the defendant, or from the date the decision is announced or promulgated? The words under consideration have a legal meaning of their own. These words appear in many remedial statutes of the states of America and the have been interpreted in a number of cases. Thus, in one case, it was held that 'rendition' of judgment means the annunciation or declaring of the decision of the court, and not the entry of the judgment on the record." (The Washington C. C. A. N. Y., 16 F., 2d, 206, 208.) In another case, it was held that "rendering judgment, as used in a statute requiring a writ of error to be brought within two years after rendering judgment, in its more obvious and national import means the announcing or declaring of the decision of the court, indicated by the rule for judgment." (Fleet *vs.* Youngs, N. Y. 11 Wend, 522, 527, 528.) And, still in another case, it was held that "under Civil Code 1913, par. 1233, providing that appeal may be taken from a final judgment of the superior court in the civil action within 'six months after rendition of such judgment' means by the term 'rendering judgment' the court's announcement of its final determination of the rights of the parties, and not formal written judgment signed by the judge and filed." (Moulton *vs.* Smith, 203 P., 562, 563, 23 Ariz., 319.) (*See also* authorities on the matter cited in "Words and Phrases," Permanent Edition, Vol. 36, pp. 872–874.) These authorities have persuasive force in this jurisdiction because of the origin of our remedial statute.

It may, therefore, be stated that one who desires to appeal in a criminal case must file a notice to that effect within fifteen days from the date the decision is announced or promulgated to the defendant. And this can be done by the court either by announcing the judgment in open court as was done in this case, or by promulgating the judgment in the manner set forth in section 6, Rule 116 of the Rules of Court. This we have impliedly indicated in Agustin Dayoan *vs.* Manual Blanco, G. R. No.

L–736, October 31, 1946. The above rule does not require that a copy of the decision be served on the parties in criminal cases. This is only required in cases decided by the Court of Appeals and the Supreme Court. (Sec. 7, Rule 53, *id.*)

Wherefore, petition is hereby granted. Respondent is required to give course to the appeal interposed by petitioner.

Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, and *Jugo, JJ.,* concur.

PARÁS, *J.:*

In the result.

Petition granted.

DECISIONS OF THE COURT OF APPEALS

[No. 5008-R. February 1, 1950]

JOSE TIAOQUI, as judicial administrator for the Estate of Romana Vda. de Tiaoqui, petitioner, *vs.* Hon. FELIPE NATIVIDAD ET AL., respondents.

JUDGMENT; OPINION OF THE COURT; JUDGMENT DISTINGUISHED FROM OPINION OF THE COURT; JOINT JUDGMENT.—It is well settled that, whatever may have been the views or issues set forth in the pleadings of the parties with reference to the scope or interpretation of any contractual obligation the same are definitely settled in the judgment which supersedes any and all litigated claims and obligations. The judgment of the court, on the other hand, is to be found in the dispositive part of its decision. The judgment must be distinguished from the opinion of the court. While the latter is the expression of the views or reasons of the court, it cannot prevail against its judgment, and in case of conflict between the two the judgment must necessarily prevail (Government *vs.* Ramos etc., 1 Off. Gaz., 879, 1942; Contreras *vs.* Felix, 44 Off. Gaz., p. 4306. (See also Oriental Commercial Company *vs.* Abeto et al., 60 Phil., 723.) It being clear that the judgment sought to be executed is a joint judgment imposing a merely joint obligation, the order of execution complained of must be sustained and affirmed.

ORIGINAL ACTION in the Court of Appeals. Mandamus.

The facts are stated in the opinion of the court.

Mariano A. Albert for petitioner.

Tañada, Pelaez & Teehankee for respondents Idelfonso and Rodriguez.

Francisco, Jacinto & Santilla for respondents Sibal et al.

No appearance for respondent judge.

DIZON, *J.:*

This is an original petition for a writ of mandamus "directing the respondents judge to issue an order for the ejectment of each and all the defendants from the lot in question."

It appears that on December 2, 1947, in the Municipal Court of Manila, Alfonso Tiaoqui, Jr., as administrator of the Intestate Estate of Romana Viuda de Tiaoqui, filed an ejectment case against Lucio R. Ildefonso, Fong Sim, Santos Cámara, Jovito San Gabriel, Lorenzo Valdez, Conrado Rodriguez, Gerónimo Hubilla, Armando Magpayo, Rosendo Ventura, Ernesto Sibal, Tomás G. Papa, José Labrador and Co Tuy (civil case No. 4212) and that after due trial said court rendered judgment whose dispositive part reads as follows:

"En su virtud, el Juzgado dicta scntencia en favor del demandante y en contra de las demandados, ordenando a dichos demandados a

que desalojen el lote en cuestión, y a pagar al demandante la suma de ₱7,080 hasta que deje completamente el lote, y las costas del juicio."

All the defendants appealed to the Court of First Instance of Manila (civil case No. 5332) and the case is still pending trial therein. It appears that in said court the plaintiff filed a motion for the execution of the appealed judgment, claiming that the defendants had failed to deposit the monthly value of the use and occupation of the property, as found by the Municipal Court, for the month of May, 1948. Notwithstanding the objection interposed thereto by the defendants the Court of First Instance of Manila ordered the issuance of the writ of execution as prayed for. On March 4, 1949, however, this court, in G. R. No. 3816–R entitled Lucio R. Ildefonso et al. *vs.* Judge Felipe Natividad et al., set aside and annulled the aforesaid order.

On June 23, 1949 the plaintiff in the aforesaid case filed another motion for execution claiming that the defendants had "failed to deposit the full amount corresponding to the period covering May 11 to June 10, 1949, having deposited, within said period, only the amount of ₱5,391, thus leaving a deficiency of ₱1,689."

On July 11, 1949 the respondent judge issued the order complained of, the dispositive part of which is as follows:

"Wherefore, the Court, granting the motion of the plaintiff in part and denying it in part, hereby orders that a writ of the execution of the judgment of the Municipal Court in this case issue only in so far as said judgment affects defendants Conrado Rodriguez, Santos Camara, Rosendo Ventura, Fong Sim and Jose Labrador."

Upon motion filed by the defendants Conrado Rodriguez, Santos Cámara and Fong Sim the order of July 11, 1949 mentioned above was amended on September 6 of the same year in the sense that the defendants Conrado Rodriguez and Santos Cámara should be excluded from the effects of the order of execution, it having been satisfactorily shown that the amounts deposited periodically by the defendant Lucio R. Ildefonso included the rents that Rodriguez and Cámara were duty bound to deposit.

The main reason why the respondent judge appears to have refused to order the execution of the judgment of the Municipal Court against all the defendants is that the said judgment was a *joint* and not a *joint and several* judgment, and that the defendants against whom the said respondent judge had refused to issue a writ of execution had made deposit sufficient to cover their respective share in the obligation imposed by the judgment.

The question before the court depends entirely upon whether the judgment rendered by the Municipal Court of Manila in civil case No. 4212 imposed a joint and several

or a merely joint obligation upon the defendants therein. If the aforesaid judgment is enforceable jointly and severally against said defendants it would seem clear that upon their failure to deposit in full the amount fixed by the Municipal Court as the reasonable value of the use and occupation of the premises in question, the plaintiff would be entitled to an execution of said judgment; otherwise he would not.

An examination of the judgment in question shows that the obligation imposed by it upon the defendants is merely a joint obligation. Petitioner's claim that the same should be interpreted as imposing a joint and several obligation upon the defendants because the contract of lease with regards to the property in question was made for the lot as a whole and for a single amount as rent; because there had been no contractual relation, express or implied, between the owner of the premises and the sublessees, that is, all the defendants except Ildefonso; because his cause of action, as stated in his complaint, in fact shows that the same was single and indivisible and that the defendants, except Ildefonso, were included as parties only to enforce against them their liability under article 1552 of the Civil Code, is untenable. Granting all these claims to be true, they do not alter nor in any way detract anything from the fact that the judgment of the Municipal Court rendered after due trial imposes a merely joint obligation upon the defendants.

It is too well settled for extended argument that, whatever may have been the views or issues set forth in the pleadings of the parties with reference to the scope or interpretation of any contractual obligation the same are definitely settled in the judgment which supersedes any and all litigated claims and obligations. The judgment of the court, on the other hand, is to be found in the dispositive part of its decision. The judgment must be distinguished from the opinion of the court. While the latter is the expression of the views or reasons of the court, it cannot prevail against its judgment, and in case of conflict between the two the judgment must necessarily prevail (Government *vs.* Ramos etc., 1 Off. Gaz., 879, 1942, Contreras *vs.* Felix, 44 Off. Gaz., p. 4306.) An examination of the judgment rendered by the Municipal Court readily shows that it simply sentences all the defendants therein "a pagar al demandante la suma de ₱7,080." The rule on the matter—as correctly stated by the respondent judge in the order complained of—has been enunciated in Oriental Commercial Company *vs.* Abeto et al., 60 Phil., 723 as follows:

"It is already a well settled doctrine in this jurisdiction that, when it is not provided in a judgment that the defendants are liable to pay jointly and severally a certain sum of money, none

of them may be compelled to satisfy in full said judgment. It is of no consequence that, under the contract of suretyship executed by the parties, the obligation contracted by the sureties was joint and several in character. The final judgment, which superseded the action for the enforcement of said contract, declared the obligation to be merely joint, and the same cannot be executed otherwise. (De Leon *vs.* Nepomuceno and De Jesus, 37 Phil., 180; Sharuff *vs.* Tayabas Land Co. and Ginainati, 37 Phil., 655.)"

It being clear, therefore, that the judgment sought to be executed imposes a merely joint obligation, and it appearing that all the defendants in civil case No. 4212 of the Municipal Court of Manila, now on appeal in the Court of First Instance of the said city as civil case No. 5332, with the exception of Rosendo Ventura, Fong Sim and Jose Labrador, had paid their respective share in the amount of ₱7,080 awarded in the judgment as the reasonable compensation for the use and occupation of the premises from which their ejectment is sought, the conclusion is inevitable that the order complained of must be sustained and affirmed. Had the respondent judge issued an order as prayed for by the plaintiff in the aforesaid case, petitioner herein, the same would have amounted to a substantial amendment of the judgment of the Municipal Court or to the rendition of a new judgment even before the trial of the case on appeal.

Wherefore, the petition under consideration is hereby dismissed, with costs against the petitioner.

Concepcion and *De Leon, JJ.*, concur.

Petition dismissed.

[No. 3570-R. February 9, 1950]

ANTONIA ALDECOA VDA. DE CARIÑO ET AL., plaintiffs and appellees, *vs.* ARCADIA ACACIO ET AL., defendants and appellants.

1. PLEADING AND PRACTICE; TRIAL; SIMULTANEOUS TRIAL OF TWO CASES IMPROPER.—It is the practice of judges of courts of first instance to assign for hearing on a single day two, three or more cases but no court ever tried two cases simultaneously, as contended by appellants. The transcript of the proceedings had during the trial of this case presents no irregularities and does not show that the trial of said case had been held simultaneously with the trial of another case. Such practice would have been a gross irregularity on the part of the court.
2. ID.; ID.; PRE-TRIAL OF CASES; REFUSAL OF PARTIES TO ENTER INTO AN AMICABLE SETTLEMENT; JUDGE'S ACT IN ANTICIPATING OPINION ON CASE, HIGHLY IMPROPER.—If after a sort of pre-trial is conducted and the court finds that there is no merit in the complaint or defense of either of the parties and advances his opinion to that effect his conduct would not be objectionable, but if the court compels the parties to enter into an amicable settlement or anticipates that they would lose the case because of their refusal to yield to his advice, then such conduct would

be highly improper and illegal and should be stopped and condemned.

3. ID.; ID.; DECISION; ONCE FINAL AND UNAPPEALED, CANNOT BE RECONSIDERED AS A COLLATERAL QUESTION IN THE MAIN CASE.—A decision which has become final because the party against whom it was rendered has failed to appeal cannot be altered and reconsidered by including it as a collateral question in the main case.

4. ID.; ID.; ID.; WHEN COURT MOTU PROPRIO MAY CONSIDER CASE SUBMITTED FOR ITS DECISION WITHOUT DEFENDANTS RESTING THEIR CASE.—If the defendants, as in this case, has no other evidence to produce except that which had been excluded by the trial court and yet did not rest their case, the court *motu proprio* could consider the case submitted for its decision in order to prevent further delay in the proceedings, and such procedure on the part of the court does not constitute an error.

5. EVIDENCE; JUDICIAL KNOWLEDGE THAT THE PHILIPPINE NATIONAL BANK CONDUCTS AN INSPECTION OF LANDS SOUGHT TO BE MORTGAGED TO IT.—It is a question of judicial knowledge that the Philippine National Bank before granting a loan conducts through its officers an inspection of the land and the improvements thereon sought to be mortgaged.

APPEAL from a judgment of the Court of First Instance of Rizal. Tan, J.

The facts are stated in the opinion of the court.

Miguel R. Cornejo and *Magdaleno M. Palacol* for appellants.

Cornelio R. Magsarili for appellees.

RODAS, *J.:*

This is an appeal from a decision of the Court of First Instance of Rizal, the dispositive part of which reads as follows:

"In view of all the foregoing, the court renders judgment in favor of the plaintiffs and against the defendants as follows:

"(*a*) The defendants are hereby ordered to surrender possession of the premises described in the complaint unto the plaintiffs;

"(*b*) The defendants are hereby ordered to pay to the plaintiffs the sum of P40 a month from October, 1947, up to the time they actually vacate and/or surrender the possession of the premises to the plaintiffs;

"(*c*) Any other person or persons holding possession of the premises described in the complaint for and in representation of the defendants are hereby also ordered to tender possession of the same to the plaintiffs herein.

"(*d*) The defendants are ordered to pay the costs of this suit.

"(*e*) The counterclaim of the defendants is hereby dismissed.

"It is so ordered."

Appellants contend that the lower court committed the following errors: 1. In holding the trial of this case simultaneously with another in the morning of May 20, 1948, the court anticipating its opinion in favor of the plaintiffs and against said defendants; 2. In rejecting the memorandum for the defendants filed on May 22, 1948 by Atty.

Miguel R. Cornejo in cooperation with Atty. Magdaleno M. Palacol, and in denying the motion to have the case transferred to another branch of said court for the presentation of further evidence for the defendants; 3. In citing Attorney Cornejo for contempt of court for having filed the above-mentioned memorandum for the defendants and declaring him guilty; 4. In rendering decision on June 5, 1948 in favor of plaintiffs and against defendants notwithstanding the fact that they have not yet rested their case; 5. In disregarding the writ of preliminary injunction issued by the Supreme Court on June 15, 1948 ordering the trial judge to refrain from rendering his decision until he shall have allowed Miguel R. Cornejo to present further evidence; 6. In denying the petition to set aside judgment or proceeding filed on June 23, 1948 by the attorneys for the defendants; 7. In holding that the late Simeon Acacio, father of defendants-appellants, sold and transferred in 1933 all his rights to the parcels of land in question in favor of the late Maximo Cariño; and 8. In sentencing the defendants, ordering them to surrender possession of the premises to plaintiffs and to pay the latter the sum of ₱40 a month from October, 1947 up to the time they actually vacate and surrender said premises to said plaintiffs and to pay the costs.

The only witness for the appellees was Antonia Aldecoa Vda. de Cariño who testified to the effect that her husband died on June 1, 1943; that in December, 1941 her late husband made demand on Simeon Acacio, the late father of the herein appellants, to vacate the land in question but said Acacio refused and even threathened to bolo her husband who was thus forced to see Judge Santos Ignacio Diaz, then the justice of the peace of Pasay, who advised Simeon Acacio to leave the land and the latter promised to do so on December 31, 1941. The agreement was not complied with because the war broke out.

During the Japanese occupation plaintiffs again tried to recover the land but again Simeon Acacio refused to vacate the same. After the liberation she made another attempt by filing a case with the justice of the peace court of Pasay for the purpose of ejecting Simeon Acacio from said land but said case was dismissed by the justice of the peace for the reasons stated in his decision, a copy of which has been presented and marked Exhibit D.

As her last attempt, on April 2, 1948 plaintiff Antonia Aldecoa Vda. de Cariño in her own behalf, as widow of the deceased Maximo Cariño y Sales, and as guardian *ad litem* of their minor children, filed a complaint in the Court of First Instance of Rizal, being civil case No. 483, for the recovery of the land in question and damages. In support of plaintiffs' contention, original certificate of title No. 311 of the office of the register of deeds of Rizal

was produced in which it appears that Simeon S. Acacio, the original purchaser of the land in question, sold his rights, title and interests in and to said land in favor of Maximo Cariño y Sales to whom original certificate of title No. 311 was issued on January 13, 1940.

Plaintiff also testified that because of the refusal of the defendants to vacate the land in question where she intended to build a "barong-barong," she had to lease a house and pay, and in fact has been paying since October, 1947 a monthly rent of ₱40.

The evidence for the defense consists mainly in the testimony of the defendants Arcadia Acacio to the effect that she is one of the children of the late Simeon S. Acacio, her other sisters and brother being Bienvenido, Cleofas and Grasiola, all surnamed Acacio; that they were all born and have lived from the time of their birth in the only land left by their deceased father; that the plaintiff Antonia Aldecoa Vda. de Cariño went to the property in question in December, two years before the war.

The next witness for the defendants was Atty. Miguel R. Cornejo who testified that Simeon Acacio was his classmate and tenant of his late father Pedro Cornejo; that way back in 1932 Simeon approached him and asked his help to pay the over-due installments on the lot in question to the Bureau of Lands; that because of said request he introduced him one day to the deceased Maximo Cariño with whom Acacio had an understanding that the former would pay the installments in arrears of the land in question and subsequent installments, on condition that after he had paid the price in full Acacio was going to mortgage the property and out of the proceeds of the mortgage he would pay Maximo; that subsequently Cariño came and asked Acacio to sign a sort of an affidavit which was not shown to the witness Miguel R. Cornejo who was sure, however, that the document he signed was written in Spanish and was not a deed of sale but only an authority for Maximo Cariño to pay the installments due on the land in lieu of Simeon Acacio. This latter part regarding the alleged understanding between Maximo Cariño and Simeon S. Acacio only appears in an offer to prove through the testimony of Mr. Cornejo made by Attorney Palacol for the defendants on the ground that the trial court sustained all the objections interposed by the attorney for plaintiffs to such kind of evidence it being parol evidence which should not prevail over the documentary evidence such as that presented by the plaintiffs. In this connection it should be stated that the attorney for the plaintiffs mentioned one document, Exhibit E, during the trial purporting to show the transfer signed by Acacio in favor of Cariño but which exhibit has not been attached to the record of this case.

Because of the ruling of the trial court not allowing Attorney Cornejo to testify further to the alleged understanding between Acacio and Cariño regarding the land in question, it being in the nature of parol evidence, Atty. Cornejo left the witness-stand and announced in open court his intention to appear as attorney for the defendants in collaboration with Attorney Palacol which the court did not allow him to do. He presented, however, a memorandum (pp. 10–13, Record on Apeal) in which he prayed, among other things, that the trial court transfer the case to another branch of the Court of First Instance of Rizal in order that he may be allowed to appear for the defendants and produce further evidence on their behalf. The trial court rejected said memorandum and ordered Attorney Cornejo to appear before it in order to show his reasons, if any, why he should not be held guilty of contempt of court, as provided for in section 18, Rule 27 and section 1, Rule 64 of the Rules of Court (pp. 13–15, Record on Appeal) to which order Attroney Cornejo filed his objection (pp. 16–25, Record on Appeal), accompanied by an affidavit of Attorney Palacol (pp. 26–27, Record on Appeal) and another of Bienvenido Acacio (p. 28, Record on Appeal).

Defendants assigned as an error committed by the trial court the fact that their case was set for hearing on the morning of May 20, 1948 together with another case and had it tried simultaneously with the latter. It is the practice of judges of courts of first instance to assign for hearing on a single day two, three or more cases but no court ever treid two cases simultaneously, as contended by appellants. The transcript of the proceedings had during the trial of this case presents no irregularities and does not show that the trial of said case had been held simultaneously with the trial of another case. Such practice would have been a gross irregularity on the part of the court. The fact is that Attorney Cornejo in his first memorandum for the defendants appearing on pages 10 to 13 of the Amended Record on Appeal has failed to touch upon this point. In said memorandum he only objected to the practice of the court of ordering or compelling the parties to enter into an amicable settlement. In this connection His Honor states:

"In the second paragraph of his memorandum, he states that the court had adviced Attorney Magdaleno M. Palacol to make an amicable arrangement. If Mr. Cornejo means settlement by arrangement, then the allegation is partially true. It has always been the practice of this court previous to the trial of all cases, civil or criminal, specially the former, to see whether an amicable settlement could be reached by the parties in order to avoid unnecessary litigations. In the exercise of its judicial functions, this court has taken advantage of the provisions of the Rules of Court under pre-trial to expedite as much as possible within its power the dispatch of all cases presented before it, but this court never force

parties to enter into amicable settlements against their will as impliedly suggested in the second paragraph of the said memorandum."

We find nothing objectionable in the practice followed by the trial court of holding a pre-trial of the cases brought before it and seeing to it that parties come to an amicable settlement, if possible. Counsel for appellants alleged that the trial court upon their refusal to enter into an amicable settlement had anticipated his opinion in favor of the plaintiffs. If after a sort of pre-trial is conducted and the court finds that there is no merit in the complaint or defense of either of the parties and advances his opinion to that effect his conduct would not be objectionable, but if the court compels the parties to enter into an amicable settlement or anticipate that they would lose the case because of their refusal to yield to his advice, then such conduct would be highly improper and illegal and should be stopped and condemned.

The second error assigned is the denial of the motion to have the case transferred to another branch. When the case was postponed in the first sitting to the following day, it was understood that the only witness for the defendants to be presented was Mr. Cornejo. In fact Attorney Cornejo took the stand for the defendants the next day and his testimony was taken but when he testified to the fact that the late Simeon S. Acacio did not transfer his rights to the land in question in favor of Maximo Cariño but only authorized the latter to pay the overdue installments on the land in question and the subsequent installments that may fall due, the court sustained the objection and even rejected the offer to prove said fact made by Attorney Palacol. Defendants have not made any offer to introduce further evidence except the one excluded. There was, therefore, no use of transferring the case. The trial court did well in not consenting to further delay and instead decided the case.

The third error assigned is the finding that Attorney Cornejo was guilty of contempt of court on the ground stated in its order, to wit:

"1. Appearing in court without being a party or attorney thereto;
"2. Using offensive language against the court;
"3. Misbehavior in the presence of the court as provided under Rule 64 of the Rules of Court; and
"4. Publishing his so-called Memorandum before it was submitted and decided by this court, and while the case is still sub-judice."

Mr. Cornejo did not appeal from the decision holding him guilty of contempt of court and now he is seeking to include said matter in this appeal. A decision which has became final because the party against whom it was rendered has failed to appeal cannot be altered and reconsidered by including it as a collateral question in the main case,

and hence this point need not be passed upon by this court.

The fourth error assigned is predicated on the fact that the court rendered its decision before the defendants have rested their case. If the defendants, as in this case, had no other evidence to produce except that which had been excluded by the trial court and yet did not rest their case, the court *motu proprio* could consider the case submitted for its decision in order to prevent further delay in the proceedings and such procedure on the part of the court does not constitute an error.

It is alleged that the trial court also committed an error in having decided the case notwithstanding the writ of preliminary injunction issued by the Supreme Court to the effect that the case should not be decided until Attorney Cornejo had been allowed to present further evidence. The case was decided on June 5, 1948 and the writ of preliminary injunction was issued by the Honorable Supreme Court on June 15, or ten days after the decision. The writ did not enjoin the trial court to lay aside its decision in order to give Mr. Cornejo a chance to produce further evidence but only enjoined it from deciding the case until after Mr. Cornejo has been given a chance to produce further evidence. The writ of preliminary injunction was, therefore, issued and received out of time and could not be availed of by Mr. Cornejo.

The discussion of the fifth and sixth errors is involved in the preceding error.

The seventh and eighth errors are the only pertinent ones which this court should pass upon for the purpose of this appeal.

There is no question that Simeon S. Acacio was the original buyer of the land herein referred to as lot 205 of the Malibay Estate Sub-division, of the barrio of Malibay, municipality of Pasay, containing an area of 603 square meters, as described in Exhibit C, the original certificate of title No. 311, being part of the military reservation known as Ft. William McKinley, and segregated therefrom for the benefit of the inhabitants thereof, one of them being Simeon S. Acacio, in whose favor the award or sale of the lot in question was made by the Bureau of Lands, as stated in the answer of the defendants. The only question, therefore, to be determined and which has been raised in the pleadings is as to whether Simeon S. Acacio sold, transferred and conveyed all his rights, title and interests in and to said lot 205 of the Malibay Estate Sub-division, as it so appears in Exhibit E, or only requested Maximo Cariño to pay the installments both due and to be due on said land because of his inability to do so, as contended by the defendants, on condition that Cariño would be paid out of the proceeds of the mortgage of said

land as soon as title thereto has been acquired and the same could be encumbered.

Plaintiffs contend that Simeon S. Acacio sold, transferred and conveyed all his rights, title and interests in and to said land in question by signing a deed to that effect which was presented to the Bureau of Lands and by virtue of which original certificate of title No. 311, Exhibit D, was issued in favor of the buyer, Maximo Cariño y Sales. The deed alleged to have been executed must be Exhibit E, according to plaintiffs, which has not been attached to the record, and no effort has been exerted by the appellants to have the same forwarded to this court in connection with their appeal. The lower court in its decision, speaking of said exhibit, stated: "* * * the deed of transfer of rights executed by Simeon S. Acacio in favor of Maximo Cariño has been marked as Exhibit E." This finding must, therefore, stand there being no evidence to the contrary except the testimony of Mr. Cornejo to the effect that a few days after a verbal understanding had been arrived at between Simeon S. Acacio and Maximo Cariño in the sense that the latter would pay the installments due and to be due on the land in question to the Bureau of Lands, Maximo Cariño returned and asked Simeon S. Acacio to sign a document which was sort of an affidavit or an authority in favor of Cariño to pay the above-mentioned installments to the Bureau of Lands in lieu of Acacio, which affidavit was not, however, shown to Mr. Cornejo. The question, therefore, is whether the document Exhibit E purporting to be the agreement entered into between Simeon S. Acacio and Maximo Cariño is a valid document or not, it having been obtained, according to the theory of the appellants, from Simeon S. Acacio through fraud or misrepresentation. The only evidence to support this theory is the testimony of Mr. Cornejo quoted above. Said testimony, however, is purely hearsay, because he himself admitted that the document executed by Simeon S. Acacio at the request of Maximo Cariño purporting to contain their agreement was not shown to him. He either, therefore, learned from Simeon S. Acacio the nature of the document which the latter was made to sign by Maximo Cariño or made a conclusion to that effect based on the prior verbal agreement he alleged was entered into between Simeon S. Acacio and Maximo Cariño. In order that parol evidence may overcome a documentary evidence, it should be a strong and convincing one and not an incompetent and inadmissible evidence, as was the testimony of Mr. Cornejo on this point.

The alleged agreement entered into between Simeon S. Acacio and Maximo Cariño was executed in the year 1932 or 1933 and since then Simeon S. Acacio neglected altogether the payment of the installments on the land in

question, although according to the allegation of the appellants, he had been inquiring from Maximo Cariño about the title to the land. On March 10, 1940 or two months after the issuance of original certificate of title No. 311, Exhibit B, Maximo Cariño mortgaged the land therein described in favor of the Philippine National Bank for the sum of ₱350, including the building existing thereon. It is a question of judicial knowledge that the Philippine National Bank before granting a loan conducts through its officers an inspection of the land and the improvements thereon sought to be mortgaged. In fact, according to the defendants, they learned about the mortgage and yet took no action to stop Cariño from executing the mortgage or even to question his right to mortgage the land and the improvements existing thereon which Simeon S. Acacio or his heirs alleged to be theirs. In 1941 Maximo Cariño asked Simeon S. Acacio to vacate the land stating that he was the owner thereof, but Acacio simply refused to vacate said land and did not take any action to have the title issued by the Bureau of Lands in favor of Maximo Cariño cancelled or have Maximo Cariño prosecuted for falsification of a public document through which he acquired the land and secured title thereto in his name. Simeon S. Acacio, notwithstanding having learned the deceit and fraud committed on him by Maximo Cariño since 1940, and notwithstanding the efforts exerted by Maximo Cariño and his heirs to oust him from the land in question did not take any step to protect his rights. He remained passive and contented himself with refusing to vacate the land and threaten to bolo Maximo Cariño if he insisted on taking possession of the same. This conduct on the part of Simeon S. Acacio is another strong evidence tending to show that he really sold the land to Maximo Cariño, and hence the evidence which Mr. Cornejo tried to present in favor of the defendants-appellants was to no avail.

In view of the foregoing, the judgment appealed from is hereby affirmed, with costs.

Endencia and *Ocampo, JJ.*, concur.

Judgment affirmed.

[No. 4484-R. February 13, 1950]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* LUIS REYES, defendant and appellant

[No. 4485-R. February 13, 1950]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* ISIDRO PANGANIBAN, defendant and appellant

[No. 4486-R. February 13, 1950]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* LUIS REYES and ISIDRO PANGANIBAN, defendants and appellants.

1. CRIMINAL PROCEDURE; RIGHT OF DEFENDANT TO HAVE LEGAL ASSISTANCE AT THE TRIAL.—At the day of the hearing defendant P appeared without counsel and Atty. S. G. for defendant R, who arrived late, alleged that his services were procured only a day before the trial. Assuming this to be true, that failure of the defendants to secure the services of a lawyer after being given ample time to seek legal assistance, is their fault and not of the court that appointed an attorney *de oficio* to assist them at the hearing, and it cannot be held that the lower court abused its discretion in denying a postponement of the hearing because defendants had no *de parte* lawyers or the latter were unprepared to take up the defense of the accused.
2. CRIMINAL LAW; EVIDENCE; ABSENCE OF DIRECT PROOF AS TO AGE OF ACCUSED; HOW AGE IS DETERMINED BY THE COURT.—It may be accepted as a sound doctrine that ordinarily, when there is no direct proof as to the age of a defendant, it shall be governed or determined by the court in accordance with the pretension of the person concerned, unless such pretension is evidently unreasonable (See U. S. *vs.* Bergantino, 3 Phil., 180; U. S *vs.* Agadas, 36 Phil., 156). However, in the case of U. S. *vs.* Polintan, 8 Phil., 309, the trial judge, having in mind the physical appearance and personal characteristics of the accused, declared as to what in his opinion was the age of the accused, who was not given the benefit of the mitigating circumstance of being under 18 years of age.
3. ID.; JUVENILE OFFENDERS; AGE OF JUVENILE OFFENDERS WHOSE PROSECUTION NEED NOT BE SUSPENDED, LOWERED TO 16 YEARS.—Republic Act No. 47, approved October 3, 1946, amended article 80 of the Revised Penal Code by lowering to 16 years the age of juvenile offenders whose prosecutions do not need to be suspended. Nowadays a minor of sixteen years of age or older can be prosecuted in court and judgment of conviction may be pronounced against him, if the evidence in the case so warrants.
4. ID.; EVIDENCE; AGE OF ACCUSED; BURDEN OF PROOF; WHERE AGE OF ACCUSED IS AT ISSUE, IT IS INCUMBENT UPON ACCUSED TO ESTABLISH HIS AGE AS ANY OTHER ELEMENT OF DEFENSE.—In cases where the age of the culprit is at issue as a basis for claiming an exempting or mitigating circumstance, it is *incumbent upon the accused* to establish that circumstance as any other element of defense. And it is so because in order that any circumstance affecting criminal liability—be it of exculpation or of mitigation—may be taken into consideration, it is necessary that the evidence produced sufficiently establish facts on which the plea may be reasonably based, and when these facts are improbable or without proper foundation the circumstance pleaded for must be rejected (See U. S. *vs.* Mallari, 29 Phil., 14). In the case at bar the appellant Luis Reyes has not satisfactorily proved to be only seventeen years of age.

APPEAL from a judgment of the Court of First Instance of Rizal. Tan, J.

The facts are stated in the opinion of the court.

Bustos & Bustos for appellants.

First Assistant Solicitor General Roberto A. Gianzon and *Solicitor Felixberto Milambiling* for appellee.

FÉLIX, *J.:*

At about 8 o'clock in the morning of December 29, 1948, while Consuelo G. Calvento was at the kitchen of

their house at No. 84 G. Villanueva Street, Rizal City, preparing the milk for her baby, a man suddenly tapped her shoulder, and at the point of a gun ordered her to "keep quiet, don't say anything, enter the room." Mrs. Calvento identified the man who tapped her as Luis Reyes who then had two other armed companions. The tallest of the trio, who is still at large, ordered her to lie flat on the floor and said, "don't shout or else you will be killed," and instructed his companions named Isidoro Panganiban to search the house for money. As the latter did not find any money, he took Mrs. Calvento's wrist watch, rings and necklace. At that time Luis Reyes was at the door watching for any person that might come, and when the robbers noticed some people coming they ran away followed by Mrs. Calvento's brother-in-law and relatives who went after them and called for help.

Luis Reyes and Isidro Panganiban were arrested by members of the Rizal City Police Department at the corner of Taft Avenue and Libertad Street a few minutes after the robbery was committed in the house of Mrs. Calvento. In the person of Luis Reyes were found a .45 cal. pistol (Exhibit F) and a loaded magazine (Exhibit F–1). Isidro Panganiban was carrying with him a wrist watch (Exhibit A), a diamond ring (Exhibit B), a wedding ring (Exhibit C), a necklace (Exhibit D), a .38 cal. "Llama" pistol (Exhibit E) and two magazines with seven bullets each (Exhibits E–1 and E–2). The jewels, Exhibits A, B, C and D were identified by Mrs. Calvento as those robbed from her, all of which were of the total value of ₱260.

Upon their arrest Luis Reyes and Isidro Panganiban were taken with the firearms and the jewelry recovered from them to the Rizal City Police Department for investigation where they gave their respective statements (Exhibits G and H), which were subscribed and sworn to before the assistant city attorney of Rizal City. As a result of the facts just narrated, three distinct and separate informations were filed in the Court of First Instance of Rizal: one for illegal possession of firearms against Luis Reyes (Criminal Case No. 1958–A—CA–G. R. No. 4484–R); another against Isidro Panganiban, also for illegal possession of firearms (Criminal Case No. 1959—CA–G. R. No. 4485–R); and a third for robbery in an inhabited house against Luis Reyes, Isidro Panganiban and one John Doe *alias* Pacing (Criminal Case No. 1961–A—CA–G. R. No. 4486–R).

After proper proceedings and joint hearing of the three cases, the court on January 31, 1940, rendered the following decision, to wit:

"In criminal case No. 1961–A Luis Reyes and Isidro Panganiban were found guilty of the crime charged in the information (robbery in an inhabited house), and each of them was sentenced to suffer

from 8 years and 21 days to 10 years of *prisión mayor* and to pay the costs. In this case the court ordered that the jewels robbed which had been recovered be returned to the owner, Consuelo G. Calvento. John Doe, *alias* Pacing, still at large, was not tried for this crime.

"In crminal case No. 1958-A, Luis Reyes was found guilty of illegal possession of firearms and was sentenced to 2 years of imprisonment and to pay the costs.

"And in criminal case No. 1959-A, Isidro Panganiban was also found guilty of illegal possession of firearms and sentenced to the same penalty of 2 years of imprisonment and to pay the costs.

"In the last two cases, the pistols (Exhibits E and F) with their magazines and ammunition were forfeited to the government."

From this decision the convicted defendants appealed and in this instance counsel for appellants filed a motion for a new trial on the ground that errors of law and irregularities had been committed during the hearing in the lower court prejudicial to the substantial rights of said accused (Sec. 2(*a*), Rule 117, of the Rules of Court). Passing upon this motion, the fourth division of this court resolved to defer motion on the same until the cases are considered on the merits, and when the cases were called for hearing before us, defendants' counsel filed a memorandum in lieu of oral argument again maintaining vigorously that appellants have been denied their right of being duly represented in the court *a quo* and properly defended therein.

Upon going over the evidence on record, and even disregarding entirely appellants' statements (Exhibits G and H), wherein they respectively admit having participated in the robbery at the house of Mrs. Calvento at the *invitation* of one Pacing who gave them the revolvers they were armed with, there can be no room for doubt that both appellants are guilty of the respective offenses they are charged with in the above three entitled cases. The revolvers and ammunition were found in their possession, and they were properly identified by the offended party as the persons of the robbers that wrested from her the jewels marked as Exhibits A, B, C, and D, which were found in the possession of Isidro Panganiban. So defense counsel, instead of impeaching the probatory weight of the evidence for the prosecution, endeavors to establish that appellants were not given opportunity to defend themselves properly, and that they were innocent participants in the commission of the offenses for which they were convicted in the cases at bar, because they were forced by one named Pacing. In consonance with this line of defense appellant's counsel contends that the lower court erred:

"1. In not allowing both accused to be properly assisted by counsel and in not giving them a reasonable time to prepare their defense;

"2. In not finding that despite the regular trial which both accused were forced to face, still the evidence in the record does not show their guilt beyond reasonable doubt; and

"3. In convicting both accused."

In answer to the alleged first error, the solicitor general points out in his brief that the records show that the two informations for illegal possession of firearms were filed on December 29, 1948, and the robbery case on December 31, 1948, and that the arraignments of the two accused in the three cases were made on January 17, 1949. It may be gathered from the record that the hearing of the three cases was to be held on the same day of the arraignment, but at the request of appellants and in order to give them an opportunity to contract the services of lawyers, the trial judge postponed the hearing for January 31, 1949, "with the understanding that that would be the last postponement."

At the day of the hearing (January 31, 1949), defendant Isidro Panganiban appeared without counsel, and Atty. Severino Gateb, for Luis Reyes, who arrived late, alleged that his services were produced only a day before the trial. Assuming this to be true, the failure of appellants to secure the services of a lawyer after being given ample time to seek legal assistance is their fault and not of the court that appointed an attorney *de oficio* to assist them at the hearing.

"Application for continuances are addressed to the sound discretion of the court.

"Where the court considers it to be necessary for the more perfect attainment of justice, it has the power upon the motion of either party to continue the case.

"A party charged with a crime has no natural or inalienable right to a continuance.

"The ruling of the court will not be disturbed on appeal in the absence of a clear abuse of discretion" (U. S. *vs.* Ramirez et al, 39 Phil., 738).

Under such circumstances, and considering the facts of record, we cannot hold that the lower court abused its discretion in denying a postponement of the hearing, and consequently, the motion for new trial has to be denied.

Appellants' counsel—quoting part of the testimony of the offended party, Consuelo G. Calvento, to the effect that:

"This tall man (probably referring to Pacing) commanded Panganiban to search if we have money. He saw our wardrobe with a key on it. So he opened and searched for money. He was not able to take anything so the tall man commanded Panganiban to take off my wrist watch, my ring and my necklace." (T. s. n., p. 5–6.)

and laying stress on the statement of the defendants that at first they objected but Pacing told them that he would take care of them (which he interprets as meaning that he would liquidate or kill them), and since that Pacing was known as a "notorious underworld character," they had to obey—now advances the theory that "the accused being both young, having acted under duress, under threats

of certain death, and knowing as they did that Pacing would kill them, or have them killed easily, anytime, they deserve another chance in life!," because "under the circumstances, it is but natural that they acted under the impulse of an uncontrollable fear of an equal or greater injury, as provided in article 12, paragraphs 5 and 6" (of the Revised Penal Code).

This plea of the defense sounds well but cannot be favorably considered. In the first place, both appellants admitted in their respective written statements (Exhibits G and H), that they executed the acts for which they have been prosecuted and convicted in the lower court because they were "invited" by Pacing who was the one that furnished them the firearms found in their possession, so that, as indicated by the solicitor general, if appellants were really unwilling to commit said crimes, they had opportunity of reporting the matter and of seeking protection from the policeman whom they passed by from the place of Pacing to the house of their victim (t. s. n., p. 42). Furthermore, they being two armed with revolvers, they could have successfully avoided the alleged compulsion or force, if there was any, by utilizing the same pistols that were given to them. Moreover, if the robbery would have been committed because of the compulsion of Pacing, it would seem logical that soon after the robbery was committed, the jewels and the revolvers would have been turned over to him; but that is not the case, because each of the appellants kept their revolvers and the robbed jewels were found in the possession of Panganiban. No stretch of imagination can make us believe that the cases at bar come within the exemptions of criminal liability provided for offenders acting "under the compulsion of an irresistible force" or "under the impulse of an uncontrollable fear of an equal or greater injury" (Art. 12, Nos. 5 and 6, RPC).

As to the age of appellants, they stated in Exhibits G and H that they were 18 years old. At the hearing Isidro Panganiban ratified his statement as to his age, and Luis Reyes stated that he was only 17 years old. We may accept as a sound doctrine that ordinarily, when there is no direct proof as to the age of a defendant, it shall be governed or determined by the court in accordance with the pretension of the person concerned, unless such pretension is evidently unreasonable (See U. S. *vs.* Bergantino, 3 Phil., 180; and U. S. *vs.* Agadas, 36 Phil., 156). However, in the case of U. S. *vs.* Polintan, 8 Phil., 309, the Supreme Court held that:

"Where the mother of the accused states that she does not know the exact age of her son, no certified copy of the record of birth being exhibited, and the trial judge, having in mind the physical appearance and personal characteristics of the accused, declares

that in his opinion the age of said accused is not under twenty, it is not proper to take into consideration, in favor of the culprit, the mitigating circumstance of his being under eighteen years of age, prescribed by paragraph 2 of article 9 (now article 13), of the Penal Code."

The trial judge, in passing upon the age of appellants, and

"After having observed them on the witness stand, specially the accused Luis Reyes, who testified that he has only one molar, when in fact and in truth he has a complete set of molars, including the wisdom teeth",

held that they are both over 18 years of age. In view of the facts and the evidence of record, appellant Luis Reyes cannot be benefitted by his pretension of being only 17 years old. In criminal case CA–G. R. No. 4484–R, because the provisions of the Revised Penal Code are not applicable to special penal statutes; and in criminal case CA–G. R. No. 4486–R, because of the following reasons: Republic Act No. 47, approved October 3, 1946, amended article 80 of the Revised Penal Code by lowering to *16 years* the age of juvenile offenders whose prosecution do not need to be suspended. Nowadays a minor of sixteen years of age or older can be prosecuted in court and judgment of conviction may be pronounced against him, if the evidence in the case so warrants.

In favor of Luis Reyes, the specific or privileged mitigating circumstance provided in paragraph 2 of article 68 of the Revised Penal Code cannot be appreciated, *firstly*, because the other two members of this division have already held that Republic Act No. 47 reserved the benefits of said article 68 to minors under sixteen years of age (People *vs.* Eugenio, CA–G. R. No. 2772–R); and, *secondly*, because we hold that the jurisprudence of the Supreme Court before cited in favor of appellant is *only* in point when the question at issue is the determination of whether the offender is or is not criminally liable taking into account his age as an element of the offense or which the *prosecution* must show, because

"any circumstance or fact which may alter the degree of liability of an accused, or affect him one way or another, should be proven as satisfactorily as the crime itself with which he is charged" (People *vs.* Mallari et al., 60 Phil., 400).

But we declare that in cases where the age of the culprit is at issue as a basis for claiming an exempting or mitigating circumstance, then it is *incumbent upon the accused* to establish that circumstance as any other element of defense. And it is so because in order that any circumstance affecting criminal liability—be it of exculpation or of mitigation—may be taken into consideration, it is necessary that the evidence produced sufficiently establish facts on which the plea may be reasonably based, and when

these facts are improbable or without proper foundation the circumstance pleaded for must be rejected (See U. S. *vs.* Mallari, 29 Phil., 14), and in the case at bar Luis Reyes has not satisfactorily proved to be only seventeen years of age.

We notice that in criminal cases CA–G. R. Nos. 4484–R and 4485–R (for illegal possession of firearms) the provisions of the Indeterminate Sentence Act have not been applied, and that in criminal case CA–G. R. No. 4486–R (for robbery in an inhabited house) the indeterminate imprisonment penalty has been erroneously fixed. In the commission of this latter crime the aggravating circumstance of dwelling has to be appreciated.

Wherefore, upon finding appellants guilty as charged in the informations, we sentence them as follows:

In criminal case CA–G. R. No. 4484–R (for illegal possesion of firearm and ammunition), Luis Reyes is sentenced to the indeterminate penalty of from 1 year and 1 day to 2 years of imprisonment and to pay the costs, the revolver and ammunition (Exhibits F and F–1) seized from him being forfeited to the government;

In criminal case CA–G. R. No. 4485–R (for illegal possession of firearm and ammunition), appellant Isidro Panganiban is also sentenced to the indeterminte penalty of from 1 year and 1 day to 2 years of imprisonment and to pay the costs, the revolver and ammunition (Exhibits E, E–1 and E–2) taken from him being likewise forfeited to the government; and

In criminal case CA–G. R. No. 4486–R (for robbery in an inhabited house), *each* of the appellants Luis Reyes and Isidro Panganiban is sentenced to the indeterminate penalty of from 4 years and 2 months of *prisión correccional* to 8 years and 1 day of *prisión mayor* and to pay the proportionate share of the costs, the jewels Exhibits A, B, C and D to be returned to the owner, Consuelo G. Calvento.

With these modifications, the decision appealed from is hereby affirmed, with costs against appellants. It is so ordered.

Jugo, Pres., J. and *De la Rosa, J.*, concur.

Judgment modified.

[No. 3611–R. February 17, 1950]

SANTA FE PLANTATION COMPANY, applicant and appellant, *vs.* THE DIRECTOR OF LANDS, oppositor and appellee

1. LAND REGISTRATION; CONTINUOUS POSSESSION SINCE 1894 REQUIRED AS BASIS FOR REGISTRATION OF LAND; SUB-SECTION 6 OF SECTION 54 OF ACT 926 DISTINGUISHED FROM SUB-SECTION (*b*) OF SECTION 45 OF ACT 2874.—It is not true that there is no law that requires possession since 1894 as a basis for the reg-

istration of a parcel of land. The law is sub-section 6 of section 54 of Act No. 926, as amended by section 1 of Act No. 1908, which subsequently was re-enacted as sub-section (*b*) of section 45 of Act No. 2874. The differences between the original law and the last one have been explained by the Supreme Court in the case of the Government of the P. I. *vs.* Faustino Abad, 56 Phil., 75. In substance the Supreme Court said that whereas under the original law continuous possession was required for a period of ten years immediately prior to July 26, 1904, or from July 26, 1894, to July 26, 1904, the later law requires that the continuous possession should begin from July 26, 1894, and should continue without interruption to the date of Act No. 2874, except when prevented by war or *force majeure*. Under the prior law continuous possession for the period of ten years before July 26, 1904, created a presumption that the occupant has performed all the conditions essential to the government grant; while under the later law the presumption exists only in favor of the occupant also in possession since July 26, 1894, up to the date when the act became effective (Ibid., citing Ongsiako *vs.* Magsilang, 50 Phil., 380). Since the present applicant did not seek registration prior to July 1, 1919, when the old law was still in force, the provisions of Act No. 2874 are appplicable.

2. ID.; ID.; ID.; CARIÑO *vs.* INSULAR GOVERNMENT, 41 PHIL., 925, INAPPLICABLE TO CASE AT BAR.—Neither is it true that the case of Cariño *vs.* Insular Government, 41 Phil., 925, as decided by the Supreme Court of the United States, supports appellant's claim of ownership. In that case the possession of Cariño and his predecessors in interest dates as far back as memory goes, that is, from time immemorial, and for that reason it was presumed that either there was a Government grant or that the property had always been held as private land. In the case at bar there was testimoy to the effect that inquiries were made for old men whose knowledge of the land dated as far back as 1894, but that none could be found. This is no evidence of possession from time immemorial, which could create the presumption of ownership in favor of possessor.

APPEAL from an order of the Court of First Instance of Laguna. Ibañez, J.

The facts are stated in the opinion of the court.

Alba J. Hill for appellant.

Solicitor General Felix Bautista Angelo and *Assistant Solicitor General Guillermo E. Torres* for appellee.

LABRADOR, *J.:*

This is an appeal from a judgment of the Court of First Instance of Laguna dismissing the application of the Santa Fe Plantation Company, an agricultural corporation registered under the laws of the Philippines, for the registration of two parcels of land in the barrio of Galangay, Santa Maria, Laguna. The documentary evidence shows that the applicant acquired those parcels of land by purchase from Julian Roque on May 12, 1944 (Exhibit B). Roque purchased it, in turn, from Pastora Carandang on December 29, 1943 (Exhibit C), and the latter from Pedro Carandang on December 23, 1940 (Ex-

hibit D). Segunda Malihan sold those lands to Pedro Carandang on April 20, 1934 (Exhibit E). The real property tax on the land had been paid continuously from the year 1932 to date, except in the years 1938 and 1939 when it was delinquent (Exhibit F). The oldest tax declaration of the property submitted is dated February 20, 1934, according to which the land is sixty hectares in area, uncultivated, and is bounded on the north by Julia Limcaoco, on the east by Mateo Alfonso, on the south by N. de los Reyes and Antonio D. Aguja, and on the west by Sapang Kay Suso (Exhibit K).

Three witnesses were presented by the appellant to support its application, namely, Sulpicio Caday, Juan Cailles, who testified by means of a deposition, and Eutiquiano Calabines. Caday testified that he had made inquiries in the town where the land is located if there were any persons whose knowledge of the land dates back to the year 1894, but that he found none. In his deposition Juan Cailles declared that he was provincial governor of Laguna since 1902; that he acquired lands in Calangay in 1910; that when he went to that place for the first time there were rice, bananas, coconuts, sweet potatoes and animals on the land; that the lands he owned are registered, with Torrens titles, and that he sold them to Julia Limcaoco, but that now they are in possession of the applicant (Exhibit M). Eutiquiano Calabines declared that he is 68 years old, and was municipal president of Santa Maria from 1922 to 1925; that he used to go on the land hunting hogs and dear; that when he came to knew the land, it was being occupied by Pedro Carandang; that he first knew the land in 1910 when he was municipal president; that it was since 1922 when he knew the land; that he was still a boy 18 years of age when Leoncio Real was claiming the land; that he went to the land for the first time in 1920; that when he went to the land for the first time, being then only 14 years of age, nobody was in possession of the land; that he was born in 1879; that the plants he had seen on the land were planted by Pedro Carandang; and that the coconuts were planted in 1924.

The trial court found that the applicant has failed to prove sufficient title for the registration of the land, and denied the application. Hence this appeal.

In its first assignment of error appellant claims that the trial court erred in holding that occupation by private owners since 1894 is necessary to entitle the applicant to the right to register the land. It is argued in support of this claim that no law requires possession since July 26, 1894, for the registration of land, and that appellant's claim is similar to that of applicant Cariño in the case of Cariño *vs.* Insular Government, 41 Phil., 935, because no one was living or could be found to testify on possession around 1894. In answer, it must be stated that it is not true that there is no law that requires possession since 1894 as a basis for the registration of a par-

No. 926, as amended by section 1 of Act No. 1908, which subsequently was re-enacted as sub-section (*b*) of section 45 of Act No. 2874. The differences between the original law and the last one have been explained by the Supreme Court in the case of the Government of the P. I. *vs.* Faustino Abad, 56 Phil., 75. In substance the Supreme Court said that whereas under the original law continuous possession was required for a period of ten years immediately prior to July 26, 1904, or from July 26, 1894, to July 26, 1904, the later law requires that the continuous possession should begin from July 26, 1894, and should continue without interruption to the date of Act No. 2874, except when prevented by war or *force majeure.* Under the prior law continuous possession for the period of ten years before July 26, 1904, created a presumption that the occupant has performed all the conditions essential to Government grant; while under the later law the presumption exists only in favor of the occupant also in possession since July 26, 1894, up to the date when the act became effective (*Ibid.,* citing Ongsiako *vs.* Magsilang, 50 Phil., 380). Since the present applicant did not seek registration prior to July 1, 1919, when the old law was still in force, the provisions of Act No. 2874 are applicable.

Neither is it true that the case of Cariño *vs.* Insular Government, 41 Phil., 925, as decided by the Supreme Court of the United States, supports appellant's claim of ownership. In that case the possession of Cariño and his predecessors in interest dates as far back as memory goes, that is, from time immemorial, and for that reason it was pressumed that either there was a Government grant or that the property had always been held as private land. In the case at bar there was testimony to the effect that inquiries were made for old men whose knowledge of the land dated as far as back as 1894, but that none could be found. Assuming this to be true, its import is that nobody could be found who had knowledge of the land as early as 1894, or that nobody had seen or known the land on or before 1894. The implication is that nobody was ever in possession or occupation in or before that year, and that the applicants and their predecessors in interest had occupied it for so long that nobody remembers when that occupation or possession started, which last circumstance is that to which the case of Cariño *vs.* Insular Government, *supra,* applies.

That possession is the case at bar is not from time immemorial is clearly evident from the evidence submitted by the applicant itself. Thus Calabines said he came to know the land when he was fourteen or eighteen years old, and at that time nobody was occupying it (t. s. n., p. 4, Session of April 22, 1947), for, as a matter of fact,

they used to hunt wild hogs and deer thereon (Ibid., p. 3). According to this witness also the first person whom he saw occupying the land is Pedro Carandang, and it was planted to coconut trees only in the year 1924 (Ibid., p. 5). And the worst part of it is that Pedro Carandang only bought the land in the year 1934 (Exhibit E), and when he declared it in that year, there were still no improvements on the land (See Exhibit K).

Another implication sought to be made by appellant is that as two parcels contiguous to the land are already registered, with Torrens titles, the land must be considered private land. Admitting, for the sake of argument, that said titles were issued on competent testimony or evidence, that does not necessarily mean that the land now in question was also owned and possessed for the same length of time as the other and under similar circumstances.

Neither does the testimony of Hipolito Nabasquez help the applicant a bit, for he said he saw other persons working in the place where the land is located, but not the original claimants Carandang.

The competent evidence for applicant, therefore, proves possession only dating as far back as 1920 or 1924. Certainly, such possession is not possession from time immemorial nor possession from 1894 as required by Act No. 2874. Applicant relies also on Exhibits H and H–1 to prove possession since 1894. To say the least, these exhibits are hearsay and incompetent. If the affiants knew of such possession, why were they not called to testify? And why does applicant itself claim that no person could be found whose knowledge of the land dates as far back as 1894? The affidavits, therefore, besides being incompetent, are certainly unreliable.

It is also contended that the declared policy of the Government is to encourage ownership and cultivation of agricultural lands, and that it is, therefore, unwise to threw "stumbling blocks" in their way. While it is admitted that such has been the policy of the Government, that does not mean that title to public lands which are not actually occupied and cultivated should be recognized. To do so would be to encourage speculation and permit applicants who are not *bona fide* farmers or possessors and cultivators to grab the patrimony of the nation, which is so zealously guarded by its public land laws.

The above considerations cover practically all the errors that are raised in appellant's brief. Finding that there are no reasons or grounds for disturbing the findings of fact made by the trial court, we hereby affirm its judgment *in toto,* with costs against the applicant-appellant. So ordered.

Paredes and *Natividad, JJ.,* concur.

Judgment affirmed.

[No. 3963-R. Febrero 20, 1950]

Abintestado de la finada Benita Zalamea: JOSÉ ZALAMEA, promovente, sustituído más tarde por AMPARO ZALAMEA, administradora y apelante, GREGORIA M. ALBERT, en su capacidad de tutora de la menor ASUNCIÓN M. ALBERT, reclamante y apelada.[1]

JUZGADO; SU COMPETENCIA PARA CONOCER DE UNA ACCIÓN REIVINDICATORIA EN LOS PROCEDIMIENTOS DE ABINTESTADO.—Aunque es cierto que los Reglamentos de los Tribunales (Art. 1, Regla 88) disponen que la acción para reivindicar la propiedad envuelta en los procedimientos de abintestado debe incoarse en acción ordinaria independiente, es el caso, sin embargo, que el Juzgado de Primera Instancia de Manila no sólo tiene, de conformidad con la ley, competencia para conocer de procedimientos especiales de abintestado, sino que puede también conocer de toda clase de asuntos que caigan dentro de su jurisdicción general ordinaria, y en el ejercicio de tal competencia, el juzgado *a quo* tiene facultad para decidir un litigio como el caso presente, si la parte interesada no interpone la correspondiente objeción. En el caso de autos la apelante no se ha opuesto al conocimiento y determinación por el tribunal de los puntos en controversia, antes por el contrario, se ha sometido a su jurisdicción. Y por falta de objeción oportuna a la competencia y jurisdicción del tribunal *a quo*, creemos que para acortar los procedimientos y hacer más pronta, expedita y económica la determinación de los puntos en controversia en este asunto, el juzgado *a quo* pudo conocer y decidir, no solamente con carácter provisional, sino de modo definitivo, la cuestión de la propiedad de la finca en litigio.

APELACIÓN contra una orden del Juzgado de Primera Instancia de Manila. Rodas, J.

Los hechos aparecen relacionados en la decisión del Tribunal.

Sres. Estanislao A. Fernandez, Jr. y *Leandro H. Fernandez, Jr.* en representación de la apelante.

Sres. Reyes & Agcaoili en representación de la apelada.

FÉLIX, *M.:*

El 11 de Febrero de 1945 falleció abintestada en esta Ciudad de Manila Doña Benita Zalamea, viuda del finado Don Alejandro Albert. No teniendo ascendientes ni descendientes que la supervivieran, su hermano José Zalamea dió inicio a estos procedimientos de adjudicación y distribución de sus bienes relictos. A ese fin presentó el 16 de Junio de 1945 una solicitud en la que pidió que se le nombrara administrador de tales bienes, previa prestación de una fianza nominal. Después de los trámites de rigor, y no habiéndose registrado oposición se otorgó el nombramiento solicitado a favor de José Zalamea, el

[1] Véase Resolución del Tribunal Supremo en el asunto G. R. No. L-3747 fechada el 2 de Mayo de 1950. La solicitud de *certiorari* ha sido sobreseida por falta de méritos. El Magistrado Montemayor no tomo parte en el deliberación.

que en 30 de Julio de 1945 presentó un inventario de los bienes de su difunta hermana.

Estando este expediente en tramitación, el abogado Don Mariano A. Albert, en nombre de Purificación Albert y de la menor Asunción Albert, representada ésta última por su madre Gregoria Montemayor Vda. de Albert (Don Francisco), presentó el 17 de Septiembre de 1945 una reclamación contra el abintestado, pidiendo que de sus fondos se pagaran ₱2,000 a Purificación y ₱600 a la menor Asunción Albert por iguales sumas que de ellas guardaba la finada Doña Benita al tiempo de su muerte. En el escrito que se presentó se alegaba que tanto el administrador José Zalamea como su abogado Don Estanislao A. Fernández, Jr., estaban enterados de estos créditos y que estaban dispuestos a satisfacerlos con fondos del abintestado si el Juzgado así lo ordenaba. El rollo del asunto no registra ninguna oposición a esta reclamación, pero de autos consta que el 2 de Octubre de 1945, estando la misma pendiente de resolución, el abogado Don Estanislao A. Fernández, Jr., informó al tribunal que, de resultas de un accidente, el administrador José Zalamea murió el 31 de agosto de aquel año, y pidió que se suspendiera toda actuación en la moción y que se le concedieran 30 días para gestionar el nombramiento de la viuda de José Zalamea como administrador de este abintestado. No obstante dicha petición, en 24 de Enero de 1946 el mismo abogado, en nombre y representación de la viuda del finado administrador, presentó al tribunal una moción pidiendo que se nombrara administradora de este abintestado a Doña Amparo Zalamea, hermana de la finada Benita Zalamea. No habiéndose registrado oposición a la moción el tribunal, por auto de 18 de Marzo de 1946, actuó favorablemente sobre ella.

En cumplimiento de sus deberes, la nueva administradora presentó el 8 de Mayo de 1947, una rendición de las cuentas de su administración, pero de ella no se desprende si se satisfizo la reclamación de Purificación y Asunción Albert, aunque de suponer es que así fuera, porque de autos no aparece que dichas acreedoras trataran de cobrar sus créditos.

Lo que si consta del expediente es que el *15 de Marzo de 1948* Doña Gregoria M. Albert, en su capacidad de tutora de la menor Asunción Albert, presentó un escrito alegando que en el inventario que el finado José Zalamea sometió como administrador y único heredero se habían erróneamente incluído como bienes de Doña Benita Zalamea las parcelas de terreno y la casa en ellas existente, situada en el No. 255 de la calle Dapitan de esta ciudad de Manila; que estas parcelas y sus mejoras—descritas en los párrafos 1 y 2 del inventario y comprendidas en los Certificados de Transferencia de Título Nos. 56096 y 30451

del Registrador de Títulos de Manila—eran de la propiedad de su hija menor Asunción M. Albert; que esta reclamación no se hizo antes porque el anterior administrador José Zalamea y ella (Doña Gregoria M. Albert) habían convenido que aquél otorgaría la correspondiente escritura de traspaso de tales propiedades a favor de Asunción M. Albert; que por la muerte de dicho administrador no se llevó a cabo el convenio; y que su sucesora, la actual administradora Amparo Zalamea, se niega a realizar la promesa de su antecesor, por lo que solicita del tribunal:

"(*a*) Que se le permita presentar pruebas que demuestren que la casa y solar situados en el No. 255 de la calle Dapitan, Manila, es de la propiedad de Asunción M. Albert;

"(*b*) Que se declare a ésta dueña de dichos bienes raíces (lotes Nos. 23, 24 y 25), más particularmente descritos en los Certificados de Transferencia de Título Nos. 56096 y 30451; y

"(*c*) Que tales inmuebles se excluyan del inventario de los bienes relictos de Benita Zalamea Vda. de Albert."

A esta moción se opuso la administradora quien presentó a tal efecto el escrito de 17 de Abril de 1948.

Después de llamada a vista el asunto y de articuladas las pruebas que las partes aportaron, el tribunal dictó auto de 10 de Septiembre de 1948 que, copiado *in toto*, dice así:

"El finado Don Alejandro Albert contrajo matrimonio con la también finada Doña Monica Zalamea, el año 1930, y estuvieron viviendo desde entonces en la casa solariega con sus dos hijos Don Mariano Albert y Don Francisco Albert, juntamente con la familia de éstos, y la viuda e hijos de su malogrado hijo Don Angel Albert, en la calle de Zurbarán, de esta ciudad, hasta el año 1935, en que se les ocurrió a los citados esposos construir una casa en la calle de Dapitan No. 255, sobre dos lotes de terreno de la propiedad de Doña Benita Zalamea, y otro lote adquirido por los mismos esposos, alrededor de los cuales, los esposos Don Francisco Albert y Doña Gregoria Montemayor de Albert, también adquirieron dos lotes.

"Terminada la construcción de dicha casa, el finado Don Alejandro Albert reunió a toda la familia en una especie de concejo, en el que expuso sus planes acerca de la distribución que quería hacer de su fortuna y evitar de este modo un probable litigio entre sus herederos para cuando pasase a mejor vida. Dijo entonces que su participación en la 'Manila College of Pharmacy' iba a ser adquirida por sus consocios por la cantidad de ₱30,000, la cual quería dividir en dos mitades, una de las cuales debía corresponder a sus hijos como participación de su difunta madre, y la otra mitad, para él, la cual iba a dividir, a su vez, en dos mitades, de a ₱7,500 cada una, que se invertiría en pagar el importe de los dos lotes de su señora, Doña Benita Zalamea, y la otra, que se entregaría a la misma señora en pago de la mitad de la casa que debía corresponderle, la cual mitad, él y su señora iban a donar a la nieta Asunción Albert, hija mayor de los esposos Don Francisco Alberto y Doña Gregoria Montemayor de Albert, a la cual habían estado cuidando y tratando como a una hija, no teniendo dichos esposos ningún hijo. Ninguno objetó a esta proposición que se llevó a cabo al pie de la letra. Cuando Don Alejandro Albert presintió que su fín iba acercándose, mandó llamar al finado Dr. Antonio Llamas, a quien

consideraba como miembro de la familia, para que buscara un notario público que se encargara de la preparación y otorgamiento de una escritura de donación. En efecto, llegó el doctor, acompañado del notario público Don Celso Molina, hijo del finado Epímaco Molina, que era también amigo de la familia, quien preparó la escritura de donación, que se firmón en su presencia por Don Alejandro Albert, su señora, Doña Benita Zalamea, así como por los esposos Don Francisco Albert y Doña Gregoria Montemayor de Albert, en representación de la menor Asunción Albert, y aceptando la donación y por Don Mariano Albert y el Dr. Llamas en calidad de testigos, la cual escritura se ratificó en el acto ante el referido notario, entregando éste el original de la citada escritura a Don Francisco Albert, y una copia a Doña Benita Zalamea, llevándose el resto de los ejemplares el citado notario público.

Esta escritura de donación nunca llegó a inscribirse en la oficina del registrador de títulos de esta ciudad, por la excesiva deferencia de parte de los padres de la menor Asunción Albert mientras vivía la referida Doña Benita Zalamea en la casa de la calle Dapitan, donde tuvieron su hogar los referidos esposos y sus hijos, con la finada Doña Benita Zalamea, y en donde le sobrevino la muerte a Don Francisco Albert, y, de donde un día fueron echados precipitadamente por los japoneses, que apenas tuvieron oportunidad de llevarse sus alhajas, prendas de vestir y papeles importantes, pasando a vivir a una casa de la calle Kansas, de la propiedad del Dr. Motemayor, padre de Doña Gregoria Montemayor, y en donde durante la liberación, encontró la muerte, mientras se hallaban resguardándose de las balas enemigas, en un solar vacante, con una infinidad de vecinos que también buscaban seguridad. Doña Benita Zalamea, por proyectiles que le dieron en el estomago, y a una sobrina en los pies, dejando a ella muerta después de algunas horas, y perdiéndose por completo el bulto que llevaba, conteniéndo objetos de valor y documentos también de valor.

"Inmediatamente después de la liberación, la familia Albert procuró buscar ejemplares de la escritura de donación, acudiendo al notario, solo para descubrir que también éste fué víctima de la carnicería hecha por los japoneses, habiéndose quemado y destruído todos sus papeles; acudieron también al Juzgado, y encontraron asímismo que todo el archivo de la escribanía, incluyendo los reports de los notarios públicos, con los ejemplares de las escrituras autorizadas o juradas ante ellos, destruídos o perdidos, siendo esta la razón por la cual el Juzgado permitió pruebas secundarias de la donación hecha a favor de la menor Asunción Albert.

En 14 de Junio de 1945, Don José Zalamea, hermano de un solo vinculo de la finada Doña Benita Zalamea, solicitó la administración de los bienes dejados por ésta, en cuyo expediente se presentó un inventario, incluyendo los bienes dejados por la finada Doña Benita Zalamea a su nieta Asunción Albert, la cual solicitud fué aprobada sin ninguna oposición de ningún género, nombrándose administrador al proponente, con una fianza de ₱500.

"Al parecer, el silencio de Doña Gregoria Montemayor, viuda de Albert, que no presentó ninguna oposición ni reparo de ningun género a la solicitud, se debió a un arreglo amistoso que el referido administrador y ella tuvieron, según se comprueba por los exhíbits A y B, en los que el referido administrador excluyó de los bienes relictos de la finada, la finca situada en la calle de Dapitan No. 255, descrita en los certificados de título Nos. 56096 y 30451, renunciando dicho administrador y único heredero a toda reclamación que tuviese con respecto a dicha finca. Cuando Don José Zalamea otorgó el referido exhíbit A y se escribió el exhíbit B, que es la base

de la inteligencia habida entre él y Doña Gregoria Montemayor, viuda de Albert, el citado administrador estaba acompañado de un abogado, y fué éste mismo el que preparó los referidos dos exhíbits A y B, consistentes respectivamente en una declaración jurada y un proyecto de arreglo sobre el cual está basada dicha declaración jurada.

"Debido, sin embargo, a la inesperada muerte del administrador Don José Zalamea, la nueva administradora Doña Amparo Zalamea no ha querido reconocer aquellos arreglos, oponiéndose a la reclamación presentada por Doña Gregoria viuda de Albert, concerniente a la finca de la calle de Dapitan, una reclamación aceptada y reconocida solemnemente por su difunto hermano, Don José Zalamea, que estaba enterado de todo cuanto ocurrió antes de la muerte de su finada hermana Doña Benita Zalamea, que le llevó a entrar en un arreglo amistoso con la familia de la donataria. La oposición se funda sencillamente en que la actual administradora y la viuda del difunto administrador no se han enterado de la donación, y porque Doña Benita Zalamea, en vida, nunca les dijo nada de ella, no obstante el hecho de que siempre estaban en continuo contacto con ella y la absoluta confianza que existía entre ella y los otros miembros de la familia, incluyendo la actual administradora, el finado administrador y la misma familia de éste. Alegan también como motivo de su oposición que la finada Doña Benita Zalamea fué quien siempre estuvo manteniendo a su hermano Don José Zalamea y a la familia de éste, compuesta de su esposa y sus hijos, quienes estaban desprovistos por completo de medios de vida. Se funda también la oposición en que la finca objeto de donación continuaba registrada a nombre de la finada, como así lo revelan los dos certificados de título que abarcan dicha finca, consistentes en terreno y casa. Hace hincapié en el hecho de que no se ha probado la donación por medio de la escritura correspondiente, como dando a entender que dicha escritura nunca se llegó a otorgar.

"Es de tener en cuenta que si bien la reclamante llama donación a la cesión hecha por la finada a favor de Asunción Albert de la finca ya mencionada, de hecho no lo fué del todo, pues Doña Benita Zalamea recibió ₱7,500 por su dos lotes, y otros ₱7,500 por su participación en la casa y de regalo, una porción de los terrenos de Mandaluyong, hechos estos que no han logrado desmentir y ni siquiera los han negado la actual administradora y sus testigos, la viuda del anterior administrador, que son los únicos interesados en retener la finca en cuestión.

"El juzgado es de opinión que el otorgamiento de la escritura de donación a favor de Asunción Albert, tuvo lugar en la forma arriba descrita; por tanto, declara dueña a Asunción Albert de los terrenos descritos en los certificados de transferencia de título Nos. 56096 y 30541, consistentes en los lotes Nos. 23, 24 y 25, con todas las mejoras existentes en los mismos.

"Así se ordena.

"Manila, Septiembre 10, 1948.

SOTERO RODAS
Juez

De este auto la administradora apeló ante nos, y en esta instancia su abogado sostiene que el tribunal *a quo* erró:

"1. Al conocer de la reclamación de propiedad de los bienes raíces objeto de este litigio; y

"2. Al declarar, contrario a la ley y a las pruebas que existió una escritura de donación de tales bienes raíces."

Con respecto al primer señalamiento de error, es de observar que cuando la tutora Doña Gregoria M. de Albert presentó su moción de 15 de Marzo de 1948, cuya parte petitoria copiamos en párrafos anteriores, la administradora apelante, lejos de pedir el sobreseimiento de la moción por carecer el tribunal inferior de jurisdicción para conocer de ella, se limitó a presentar su oposición en forma y a pedir que la moción se denegara.

Cuando el 25 de Marzo de 1948 se llamó el asunto a vista, el abogado de la administradora dejó que Don Mariano A. Albert declarara como testigo de la reclamante y sólo al final de su testimonio hizo la siguiente constancia:

Sr. Fernandez:

"Antes de dirigir algunas repreguntas al testigo, desearía hacer constar, con la venia de este Honorable Juzgado, que el que se hace cargo de este expediente, en relación con la propiedad en cuestión, era mi auxiliar señor Alfonso, y por tener él compromiso esta mañana, no ha podido comparecer hoy; pues, de los escritos presentados en este intestado, *esta representación es de opinión que la cuestión de si o no la reclamante Asunción Albert es dueña de la finca en cuestión, debe ventilarse en otro asunto aparte, porque este expediente de intestado se halla en el 'probate', y este Honorable Juzgado no tiene jurisdicción para decidir esta cuestión de propiedad sobre un inmueble. Hemos dejado al testigo declarar, no para tomar ventaja de lo que él pudiera decir, sino para ver aclarada la duda que tiene sobre el administrador. La primera administradora de esta causa, era la única heredera de José Zalamea, y luego le sustituyó Amparo Zalamea, por tanto, vamos a dirigir algunas repreguntas al testigo tan solo para aclarar esta cuestión, y después hablaríamos con la actual administradora. No quisiéramos privar a Asunción Albert lo que es de ella realmente, y es que la administradora no tenía conocimiento personal sobre esa cuestión.*

Juzgado:

"La cuestión que usted ha suscitado es contraria a la práctica de este Juzgado. El Juzgado conoce de todas las cuestiones sobre propiedad.

Sr. Albert:

"Si me permite, voy a contestar brevemente al Sr. Fernández. Me parece que el Tribunal de testamentarías, tiene la facultad de decidir si una propiedad mueble o inmueble que figura en el inventario del finado, pertenece o no al intestado; no se puede negar esa facultad al Tribunal." (Págs. 7–8, t. n. t.)

Como puede verse de lo que antecede, la representación de la administradora solamente se limitó a expresar una opinión acerca de la competencia del tribunal, pero *no objetó* a la recepción de pruebas, y no sólo repreguntó a Don Mariano A. Albert y a los otros testigos de la reclamante, sino que llegado su turno practicó las pruebas que creyó necesarias para sostener la oposición de la administradora. En tales circunstancias, y aunque es cierto que los Reglamentos de los Tribunales disponen que:

"No se incoará contra el albacea o administrador acción alguna sobre cantidad de pesos, ni por deuda o por intereses de la misma,

pero se podrán incoar acciones contra el mismo *para reivindicar bienes* muebles o *inmuebles*, o para ser efectivos gravámenes sobre los mismos, así como las acciones por daños a las personas o a la propiedad mueble o inmueble" (Art. 1, Regla 88).

lo cual quiere decir que la acción para reivindicar la propiedad envuelta en estos procedimientos debió incoarse en acción ordinaria independiente, es el caso, sin embargo, que el Juzgado de Primera Instancia de Manila no sólo tiene, de conformidad con la ley, competencia para conocer de procedimientos especiales de abintestado, sino que puede también conocer de toda clase de asuntos que caigan dentro de su jurisdicción general ordinaria, y en el ejercicio de tal competencia, el Juzgado *a quo* tiene facultad para decidir un litigio como el que nos ocupa en el caso presente, si la parte interesada no interpone la correspondiente objeción. En el caso de autos la apelante no se ha opuesto al conocimiento y determinación por el tribunal de los puntos en controversia, antes por el contrario, se ha sometido a su jurisdicción. Siendo esto así, creemos de justicia aplicar al caso las disposiciones del artículo 2 de la Regla 1.ª de los Reglamentos de los Tribunales que instruye lo siguiente:

"Se interpretarán libremente estas reglas a fín de lograr el objeto que persiguen y facilitar a los litigantes la determinación justa, pronta y económica de toda acción o actuación."

La objeción que en apelación plantea la apelante es de carácter puramente técnico, y contra ella se puede oponer otro tecnicismo de la ley cual es el de que la objeción se plantee en tiempo oportuno.

El Tribunal Supremo en el asunto de la testamentaría de la finada Arcadia Santos, Gaceta Oficial, Vol. 40, Octavo Suplemento, No. 12, pp. 221, 224, declaró que:

"En cuanto a la exclusión del inventario de ciertas propiedades, si bien es cierto, como regla general, que el tribunal en esas actuaciones, no tiene facultad para decidir cuestiones sobre título de propiedad, ya hemos declarado, sin embargo, que *puede hacerlo*, de un modo provisional, cuando el propósito es solamente para determinar si deben o no excluirse del inventario algunas propiedades en particular. No hace mucho dijimos lo siguiente:

"Un Juzgado que conoce de un expediente de testamentaría o abintestado tiene jurisdicción y competencia para determinar sí los bienes que han sido incluídos en él o excluídos de él pertenecen o no *prima facie* al finado, sin que su determinación tenga el carácter de firme y definitivo y sin perjuicio de que las partes interesadas puedan en un juicio apropiado ventilar la cuestión referente a la propiedad o la existencia del derecho o crédito. (García *contra* García, G. R. No. 45430, Abril 15, 1939.)" (Off. Gaz., Vol. 40, Suplemento 1.°, No. 3, p. 66.)

En el caso de autos y por falta de objeción oportuna a la competencia y jurisdicción del tribunal *a quo*, creemos que para acortar los procedimientos y hacer más pronta, expedita y económica la determinación de los puntos en controversia en este asunto, el juzgado *a quo* pudo cono-

cer y decidir, no solamente con carácter provisional, sino de modo definitivo, la cuestión de la propiedad de la finca en litigio.

En lo que atañe al segundo señalamiento de error, somos de parecer, y así lo declaramos, que el auto de que se apela es tan convincente en sí mismo y está tan ajustado a la ley y al peso de las pruebas, que no tenemos el menor reparo en adoptarlo como nuestro, y si alguna adición hubiera que hace para completarlo, la misma consistiría en ordenar, como por la presente ordenamos, que dentro del término de 30 días a partir de la fecha en que esta decisión quedare firme, la administradora Amparo Zalamea otorgue la correspondiente escritura de traspaso de los lotes y de las mejoras existentes en ellos, a que se contraen los Certificados de Transferencia de Títulos Nos. 56096 y 30451 del Registrador de Títulos de Manila, y que de no hacerlo así la administradora en el plazo indicado, se autorice, como por la presente autorizamos al Registrador de Títulos de Manila para que en virtud de esta decisión cancele los anteriores certificados de título de dicha propiedad, y expida uno nuevo a favor de Asunción M. Albert, previo pago por ésta de los derechos correspondientes.

Por tanto, con la adición aclaratoria que acabamos de hacer, confirmamos en todas sus partes el auto apelado, con las costas a cargo de la apelante.

Así se ordena.

Hugo, Pres., y *De la Rosa, M.*, están conformes.

Se confirma la orden con costas.

[No. 3365–R. February 21, 1950]

GO TI LIONG, plaintiff and appellee, *vs.* CONRADO AGUILAR, SERGIO AGUILAR, PROCOPIO AGUILAR and GONZALO AGUILAR, defendants and appellants.

1. CONTRACTS, INTERPRETATION OF; DOUBT AS TO WHETHER TRANSACTION IS "PACTO DE RETRO" OR MORTGAGE; SETTLED RULE.—It is a well settled rule that when doubt exists as to whether the transaction is one of sale with *pacto de retro* or a mortgage, the doubt should be resolved in favor of lesser transmission of rights and interests (Olino *vs.* Medina, 13 Phil., 379). However, in view of that fact the instant case is almost on all fours with the case of Mojica *vs.* Fernandez, 9 Phil., 403, we hold that the transaction had between the plaintiff and the defendants was a *pacto de retro* sale and not a mortgage, and therefore, that the defendants have lost their right to the lands by their failure to repurchase them within the seven-year period provided for in Exhibit 2 or Exhibit C.

2. PUBLIC LAND LAW; PRIVATE AGRICULTURAL LAND ACQUIRED BY CHINESE, VOID; REVERSION IN FAVOR OF THE GOVERNMENT; SECTION 122 OF ACT 2874 (equivalent to Sec. 124, of Act 141), APPLICABLE IN CASE AT BAR.—The contention of the appellants that Act No. 2874 is not applicable to the instant case is untenable. The provision contained in section 121 of Act 2874,

which are embodied in section 123 of the new Public Land Law No. 141, are so broad as to include the two parcels of land in question which have been acquired by Tranquilino Aguilar or his predecessors-in-interest, if not under the provisions of said Act 2874, they should have been acquired under any "previous Act, ordinance, royal order, royal decree, or any other provision of law formerly in force in the Philippine Islands with regard to public lands *terrenos baldíos y realengos*, or lands of any other denomination that were actually or presumptively of the public domain, or by royal grant or in any other form." The contention, therefore, of the defendants to the effect that the sales with *pacto de retro* executed by their predecessor-in-interest in favor of the herein plaintiff a chinaman, of the two parcels of land in question were void and of no effect from the time they were executed is correct. Under section 122 of said Act (equivalent to section 124 of Act No. 141), the property therein described as well as any improvements existing thereon should revert to the government. However, the government not being a party to this case, this court is not in a position to make any finding in its favor, and hence hereby affirms the decision appealed from, without costs and prejudice to the rights of the government to claim for the lands in question under the aforecited provisions of law, if ever it may deem proper so to do.

APPEAL from a judgment of the Court of First Instance of Leyte. Diez, J.

The facts are stated in the opinion of the court.

Pedro S. Aguilar for appellants.
Francisco M. Pajao for appellee.

RODAS, *J.:*

This is an appeal from the decision of the Court of First Instance of Maasin, Leyte, sentencing the defendants to deliver the possession of two parcels of land to the plaintiff and to pay him the sum of ₱450 as damages, with costs.

Defendants-appellants alleged that the lower court committed errors in not considering Exhibits A and B as mere contracts of mortgage; in not finding that the plaintiff who is a chinaman could not acquire private agricultural land in this country, in accordance with the provisions of Act 2874; and in not holding that the defendants offered to pay in 1942 to the plaintiff the sum of ₱658 as redemption price of said two parcels of land.

Tranquilino Aguilar, the father and predecessor in interest of the defendants, on April 7, 1929, sold with *pacto de retro* to the plaintiff Go Ti Liong for the sum of ₱208 a parcel of land containing an area of 1 hectare, 42 ares and 20 centares, situated in barrio San Francisco (Tono), Liloan, Leyte, with right to repurchase the same within one year (Exhibit A), and on April 9, again sold to the same party for the sum of ₱450 another piece of land situated in the same barrio (Pinamudlan) containing an area of 5 hectares, 64 ares and 80 centares, with the right to repurchase within five years.

Tranquilino Aguilar having failed to repurchase the above-mentioned parcels of land within the respective periods granted him to that effect, plaintiff consolidated ownership thereof in his favor. From the time plaintiff bought the two parcels of land in 1929 in the manner above set forth, defendant Conrado Aguilar had been working as his tenant on said lands without any written contract to that effect. On January 15, 1936, however, fearing that the plaintiff might sell the lands to others, Conrado Aguilar and his brothers, the other defendants, requested plaintiff to execute a contract in their favor as tenants of the above-mentioned two parcels of land sharing with the owner one-half of the products, with option to purchase said two parcels of land within the period of seven years. In 1946 the defendants, with the help of one Daniel Capitana, offered to purchase the land, but plaintiff rejected the offer on the ground that the time for them to exercise said right had elapsed. Since that time defendants have refused to give plaintiff his share in the products of the lands, hence the filing of this action.

Defendants testified that the two parcels of land hereinabove-mentioned were not sold by their father Tranquilino Aguilar to the herein plaintiff but only mortgaged them in his favor; that Tranquilino mortgaged the land described in Exhibit A in favor of one American named James Anderson for the sum of ₱200 with interest thereon consisting of one coconut fruit for every peso a month which had to be delivered at the house of the American situated at quite a distance from the land in question; that Go Ti Liong, out of pity, gave them ₱200 in order to pay the American on condition of paying him interest on said sum consisting of 60 kilos of copra every month; that the land described in Exhibit B situated in Pinamudlan was encumbered in favor of one chinaman named Laya, the father-in-law of the plaintiff, in the sum of ₱450 representing money furnished by said Laya to Tranquilino in connection with a business and which amount was lost, so that the sum of ₱450 mentioned as purchase price in said deed of sale with *pacto de retro* was not paid in cash to Tranquilino; that in accordance with the terms of Exhibit 2 or Exhibit C for the plaintiff, which is a contract of tenancy, giving the defendants an option to purchase within seven years from 1936 the said two parcels of land, defendants offered to pay to the plaintiff in December, 1942, at the house of defendant Gonzalo Aguilar the necessary sum to accomplish said purchase but Go Ti Liong, upon learning that they wanted to pay him with emergency money, refused to accept it and asked them to look for genuine money, telling them then that at any rate they could take back the land at any time; that when they were able to raise enough money they offered to pay Go Ti Liong in 1946 but the latter told them that he did

not have then the documents (meaning Exhibits A and B); and that they offered to pay him even though without the said documents provided he would issue a receipt. Go Ti Liong wanted to receive the money but without issuing a receipt, and so defendants deposited it in the office of the municipal treasurer of Liloan as shown by Exhibits 3 and 4, the first being an acknowledgment of the deposit of ₱1,000 which said municipal treasurer received, and the second, the letter offering the deposit.

Both parties alleged having paid the land taxes on the two parcels of land. Go Ti Liong alleged having done it through the defendants, as his tenants, and in support of his contention produced receipts marked Exhibits G, G–1 to G–4, representing payments of land taxes from 1941 to 1947, alleging that the rest of the receipts were burned. It appears, however, that the tax declaration covering said parcels of land had always been in the name of Tranquilino Aguilar, as shown by Exhibits F and F–1.

The well settled rule on this point is that when doubt exists as to whether the transaction is one of sale with *pacto de retro* or a mortgage, the doubt should be resolved in favor of lesser transmission of rights and interests (Olino *vs.* Medina, 13 Phil., 379). However, this court finds that the instant case is almost on all fours with the following:

"The land sold by M. to S. with 'pacto de retro' in 1894, not being redeemed within the 4 years agreed upon, S. made the necessary 'nota de consolidacion' in the proper registries as absolute owner. On December 1, 1901, S. and M. entered into a new agreement in private writing whereby the estate was leased to M. at ₱150 monthly, M. to have the right of repurchase for ₱15,000 within 10 years. The rental was paid up to time of the death of S., whose last will and testament recognized the rights of repurchase though it was not admitted to probate. The widow of S. continued to receive the ₱150 monthly until May, 1905, when defendant administratrix raised the rent to ₱350, M. refusing to pay that amount but tendering the agreed amount of ₱150. Plaintiff M. claimed the contract was one of loan of ₱15,000 secured by mortgage, and instituted an action against the administratrix of the estate of S. to require said administratrix to register the private document of rental and the agreement to resell the land, and to annul the consolidation of ownership in favor of S. Contract construed one of 'pacto de retro,' and case dismissed, the heirs of S. to be compelled in a proper action to execute a public document evidencing the terms of the private instrument of 1901. Mojica *vs.* Fernandez, 9 Phil., 403; 9 Jur. Fil., 412."

According to the doctrine above-quoted the transaction had between the plaintiff and the defendants was a *pacto de retro* sale and not a mortgage, as contended by the defendants. With regards to Exhibit C, giving option to the defendants to purchase the land within seven years, the court is of the opinion that the offer to purchase by the defendants was made out of the seven-year period. The contention of the defendants that they offered to pay plain-

tiff the amount required to purchase the land in December, 1942 does not seem to have been proven.

Among the errors assigned by the appellants is that committed by the lower court in holding that Act No. 2874 is not applicable to the instant case. Section 121 of said Act (equivalent to section 123 of the new Public Land Law No. 141), reads as follows:

"No land originally acquired in any manner under the provisions of the former Public Land Act or any other Act, ordinance, royal order, royal decree, or any other provision of law formerly in force in the Philippine Islands with regard to public lands, *terrenos baldíos y realengos*, or lands of any other denomination that were actually or presumptively of the public domain, or by royal grant or in any other form, nor any permanent improvement on such land, shall be encumbered, alienated, or conveyed, except to persons, corporation, or associations who may acquire land under this act; to corporate bodies organized in the Philippine Islands whose charters may authorize them to do so, and, upon express authorization of the Philippine Legislature, to citizens of the countries the laws of which grant to citizens of the Philippine Islands the same right to acquire, hold, lease, encumber, dispose of, or alienate land or permanent improvements thereon or any interest therein, as to their citizens, and only in the manner and to the extent specified in such laws, and while the same are in force, but not thereafter: *Provided, however*, That this prohibition shall not be applicable to the conveyance or acquisition by reason of hereditary succession duly acknowledged and legalized by competent courts, nor to lands and improvements acquired or held for industrial or residence purposes, while used for such purposes: *Provided, further*, That in the event of the ownership of the lands and improvements mentioned in this section and in the last preceding section being transferred by judicial decree to persons, corporations or associations not legally capacitated to acquire the same under the provisions of this Act, such persons, corporations, or associations shall be obliged to alienate said lands or improvements to others so capacitated within the precise period of five years, under penalty of such property reverting to the Government in the contrary case."

The provisions contained in the above-quoted section of Act 2874, which are embodied in the new Public Land Law No. 141, are so broad as to include the two parcels of land in question which have been acquired by Tranquilino Aguilar or his predecessors-in-interest, if not under the provisions of said Act 2874, they should have been acquired under any "previous Act, ordinance, royal order, royal decree, or any other provision of law formerly in force in the Philippine Islands with regard to public lands, *terrenos baldíos y realengos,* or lands of any other denomination that were actually or presumptively of the public domain, or by royal grant or in any other form." The contention, therefore, of the defendants to the effect that the sales with *pacto de retro* executed by their predecessor-in-interest in favor of the herein plaintiff of the two parcels of land in question were void and of no effect from the time they were executed is correct. Under section 122 of said Act (equi-

valent to section 124 of Act No. 141), the property therein described as well as any improvements existing thereon should revert to the government. However, the government not being a party to this case, this court is not in a position to make any finding in its favor, and hence hereby affirms the decision appealed from, without costs and prejudice to the rights of the government to claim for the lands in question under the afore-cited provisions of law, if ever it may deem proper so to do.

Endencia and *Martinez, JJ.*, concur.

Judgment affirmed.

[No. 5388–R. February 22, 1950]

GONZALO P. NAVA, petitioner, *vs.* Hon. HIGINIO MACADAEG in his capacity as Judge of the Court of First Instance of Manila, FILIPINAS LIFE INSURANCE COMPANY and INSULAR LIFE ASSURANCE COMPANY, respondents.[1]

1. PLEADING AND PRACTICE; ANSWER TO COMPLAINT; PRO FORMA ANSWER, WITH RESERVATION TO FILE AN AMENDED ANSWER; ADMISSION OF AMENDED ANSWER WITHIN COURT'S DISCRETION.—It is clearly within the discretion of the lower court to relieve a party from the effect of an admission resulting from the filing of a general denial and to permit an amended answer with suitable defenses to be interposed. The Supreme Court has adhered to this doctrine in two different decisions: Trias *vs.* Court of First Instance of Cavite, 42 Off. Gaz., 1485 and Dacanay *vs.* Lucero, 42 Off. Gaz. 2119.

2. ID.; ID.; ID.; ID.; CASE OF EL HOGAR FILIPINO *vs.* SANTOS INVESTMENT, INAPPLICABLE TO CASE AT BAR.—The petitioner relies upon the decision of the Supreme Court in El Hogar Filipino *vs.* Santos Investment (2 Off. Gaz., No. 5, p. 493, May, 1943). The inapplicability of this decision has already been established by the Supreme Court in its Dacanay *vs.* Lucero decision, (supra) and the reasons given therein are applicable, *mutatis mutandis*, to the case at bar. The case of Lichauco *vs.* Guasch, 42 Off. Gaz., p. 1863, when taken in connection with the case of Dacanay *vs.* Lucero, *jam cit.*, only serves to emphazise that the granting or denying of a motion for judgment on the pleadings lies in the discretion of the Court of First Instance.

ORIGINAL ACTION in the Court of Appeals. Certiorari and Mandamus.

The facts are stated in the opinion of the court.

Gonzalo P. Nava for petitioner.
Araneta & Araneta for respondents.

REYES, J. B. L., *J.:*

The petitioner Gonzalo P. Nava filed, on February 9, 1949, an action in the Court of First Instance of Manila,

[1] See Resolution of the Supreme Court in G. R. No. L–3752 of May 2, 1950. Appeal by certiorari was dismissed for lack of merits.

to recover from the respondents Filipinas Life Insurance Company and Insular Life Assurance Company ₱31,633.80 paid as premiums on 18 insurance policies, which said petitioner sought to rescind. On February 14, 1949, eleven days before the expiration of the period for filing the answer, the respondents, through counsel, prayed the court to grant them an extension of fifteen days from February 25, 1949, on the ground that they had to examine the policies before being able to submit a responsive answer to the complaint. The petitioner strongly objected to this postponement, which was ultimately denied by the respondent judge in his order of February 19, 1949. It appears, however, that on March 5, 1949, the court issued an order explaining that the petition for extension to file the answer had been denied because the petitioner "manifested in open court that should the petition for extension of time to answer be denied, he will have no objection to an amended answer being filed by the defendants." Apparently on that understanding, the respondents filed a *pro forma* answer on February 22, 1949, stating that the defendants "are filing the answer in its present form for the purpose of forestalling their being declared in default and that they reserve the right to file an amended answer without unnecessary delay." The answer thus filed contained what amounted merely to a general denial "subject to further amendments to be made in defendants' amended answer which they will file in due time as heretofore announced" (Annex F). Without loss of time, petitioner filed a motion for judgment on the pleadings, alleging that the answer constituted an admission of the allegations of his complaint. This motion was heard and denied on March 5, 1949, and on March 10, the respondent companies filed a motion (Annex H) to admit an amended answer (Annex H–1) containing specific defenses, as prescribed by the Rules of Court. Over and above the vigorous opposition of the petitioner, the lower court finally resolved to admit the amended answer by an order dated October 27, 1949 (Annex J). His motion for reconsideration of this admission (Annex H) having been denied, the petitioner resorted to this court for a writ of certiorari and mandamus to set aside the admission of the amended answer and to compel the lower court to render judgment on the original pleadings.

The petition must be denied. It is clearly within the discretion of the lower court, as stated in its order of October 27, 1949, to relieve a party from the effect of an admission resulting from the filing of a general denial and to permit an amended answer with suitable defenses to be interposed. The Supreme Court has adhered to this doctrine in two different decisions: Trias *vs.* Court of First Instance of Cavite,

42 Off. Gaz., 1485 and Dacanay *vs.* Lucero, 42 Off. Gaz., 2119. In the first case it was held that:

"In conclusion we hold (1) that the admission of the material averments of the complaint imposed by section 8 of Rule 9 is not irrevocable and, like any other admission in court, may be withdrawn with leave of the court if there is a justifiable reason therefore and if the interests of justice so require; and (2) that an answer consisting of a general denial may, with leave of the court obtained under section 2 of Rule 17, be so amended as to do away with the implied statutory admission."

Amplifying this doctrine, the high court in Dacanay *vs.* Lucero, further stated the following:

"Under this provision, when the purpose of an amendment is to submit the real matter in dispute without any intent to delay the action, the court, in its discretion, may order or allow the amendment upon such terms as may be just. Here, defendants wanted to dispute the material facts alleged in the complaint, but they failed by mistake to make a specific denial, as required by Rule 9, section 7. A denial does not become specific merely because it is qualified by that word, but because it specifies the allegations that are not admitted, setting forth, if practicable, the matters relied upon to support the denial. Defendants, however, in applying for amendment were not charged with an intent to delay the action. The case was at initial stages, and the amendment could not work inconvenience to plaintiffs except that they were thus prevented from winning the case without contest. A litigant's desire to take advantage of his opponent's mistake may be legitimate but cannot be encouraged. A litigant may thus be defeated not for lack of rights, but because he lacks the skill. 'Lawsuits, unlike duels, are not to be won by a rapier's thrust,' as we have once ruled (Alonso *vs.* Villamor, 16 Phil., 315, 322). Anything, therefore, that may preclude a party from presenting with fullness the facts of his case should be brushed aside, if this can be done without unfairness to the other party and by the means provided by the Rules of Court. And this is what the respondent judge did in the instant case by allowing an amendment to the answer in the exercise of the discretion vested in him by the above-quoted rule."

The petitioner insists that these doctrines are not applicable because counsel for the respondents being "brilliant attorneys" can not be charged with ignorance of rule 9, sections 7 and 8, and Rule 35, section 10, of the Rules of Court. The records precisely show that counsel for respondents were perfectly aware of the rules aforementioned and that if they filed a general denial, they did so because of the refusal of the lower court to grant sufficient time for filing an adequate answer, a refusal which, as explained by the order of March 5, 1949, was induced by petitioner himself, who avowed his conformity to the filing of an amended answer. Petitioner's allegation that he made no such statements avails nothing against the official order of the court; it nowhere appears that he ever protested against the assertion of the court below. But even if appellant had never agreed to the filing of the amended answer, the order of March 5, 1949, shows that the court below understood

that he had, and was entitled to take the proper corrective action to ward off the prejudicial effect of the order denying the extension of the time to answer, which was issued because of the misunderstanding.

The theory that the respondents were merely seeking to delay the case is, in our opinion, unfounded. The respondents did not even exhaust the full periods to which they were entitled. They filed a petition for extension of time ten days before the period for the original answer expired, and submitted an amended answer within two weeks from the expiration of that period. We see nothing in that conduct that would indicate any intention to unnecessarily delay the case.

The petitioner relies upon the decision of the Supreme Court in El Hogar Filipino *vs.* Santos Investment (2 Off. Gaz., No. 5, p. 493, May, 1943). The inapplicability of this decision has already been established by the Supreme Court in its Dacanay *vs.* Lucero decision, heretofore cited, and the reasons given therein are applicable, *mutatis mutandis*, to the case at bar. The High Court there said the following:

"The ruling in the case of El Hogar Filipino *vs.* Santos Investment (2 Off. Gaz., No. 5, p. 493, May, 1943), is relied upon, but is not applicable. There, the defendant made a general denial which he never sought to amend, and the trial court rendered judgment on the pleadings as applied for. The action of the trial court was held to be right. It could not validly refuse to render judgment on the pleadings since the general denial was allowed to stand unamended and the facts alleged in the complaint remained thus undisputed. (Baetamos *vs.* Amador, G. R. No. 49255.) Here, however, the respondent court granted leave to amend the answer, and it was right in so doing as above stated. (Trias *vs.* Court of First Instance of Cavite, G. R. No. L-95, January, 1946.)"

The case of Lichauco *vs.* Guasch, 42 Off. Gaz., p. 1863, when taken in connection with the case of Dacanay *vs.* Lucero, *jam cit.*, only serves to emphasize that the granting or denying of a motion for judgment on the pleadings lies in the discretion of the Court of First Instance.

The defenses interposed by respondents in the amended answer can not be justifiably considered and decided at this stage of the proceedings. Suffice it to say that the respondents had every right to interpose such defenses as they deem necessary for the protection of their interests and to ask the court to pass upon th merits thereof after proper trial.

It may be usefully observed that if this case has been delayed for over a year, it is mainly because of the petitioner's conduct. An amended answer having been filed on March 10, 1949, the same could have been admitted and

the issues tried on the merits within the compass of the last calendar year, but the petitioner has lengthened the proceedings by his insistence on scoring a technical and effortless victory, and deny to the respondent companies a chance to present their side in court. It is unnecessary to emphasize that such attitude can not be encouraged. If there is a right more sacred than that of being heard before sentence is passed, we know it not.

We conclude that the lower court did not abuse its discretion in denying the motion for a judgment on the pleadings and in admitting the amended answer, in order that the issues could be thoroughly threshed out and determined.

The petition is dismissed and the writ applied for is denied, with costs against petitioner.

Gutierrez David and *Ocampo, JJ.*, concur.

Petition dismissed; and writ denied.

OFFICE OF ALIEN PROPERTY

Department of Justice of the United States

BAR ORDER NO. 12–A

ORDER IN FIXING BAR DATE FOR FILING CLAIMS IN RESPECT OF CERTAIN DEBTORS

In accordance with section 34(*b*) of the Trading with the Enemy Act, as amended, and by virtue of the authority vested in the Attorney General by said Act and Executive Orders Nos. 9788 and 10254, July 1, 1952, is hereby fixed as the date after which the filing of claims shall be barred in respect of debtors, any of whose property was first vested in or transferred to the Philippine Alien Property Administrator between July 1, 1950 and December 31, 1950, inclusive, and for whom no earlier bar date has been fixed by the Philippine Alien Property Administrator or the Attorney General.

(40 Stat. 411, 55 Stat. 839, Pub. Law. 671, 79th Cong., 60 Stat. 925; 50 U. S. C. App. 1, 50 U. S. C. App. Sup. 616; E. O. 9193, July 6, 1942, 7 F. R. 5205, 3 CFR, Cum. Supp.; E. O. 9788, Oct. 14, 1946, 11 F. R. 11981; E. O. 10254, June 15, 1951, 16 F. R. 5829.)

Executed at Washington, D. C., this 14th day of February, 1952.

For the Attorney General:

HAROLD I. BAYNTON
Assistant Attorney General
Director, Office of Alien Property

[OFFICIAL SEAL]

(F. R. Doc. 52–1977; Filed, Feb. 19, 1952; 8:45 a.m.)
([17 F. R. 1571, February 20, 1952].)

Filed with the Official Gazette, March 7, 1952, 1:50 p.m.

VESTING ORDER P–847

RE: CASH OWNED BY THE IMPERIAL JAPANESE GOVERNMENT

Under the authority of the Trading with the Enemy Act, as amended (50 U. S. C. App. and Sup. 1–40); the Philippine Property Act of 1946, as amended (22 U. S. C. Sup. 1382); Executive Order 9193, as amended by Executive Order 9567 (3 CFR, 1943 Cum. Supp.; 3 CFR, 1945 Supp.); Executive Order 9788 (3 CFR, 1946 Supp.); Executive Order 9818 (3 CFR, 1947 Supp.); Executive Order

10254 (16 F. R. 5829, June 19, 1951), and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows:

a. Cash in the amount of ₱17,640 in Philippine National Bank notes presently held in deposit by the National Treasurer of the Philippines, said deposit made by the Philippine Alien Property Administrator on October 10, 1947, together with any and all rights to demand, enforce and collect the same.

b. Cash in the amount of ₱45 in Bank of the Philippine Islands notes presently held in deposit by the National Treasurer of the Philippines, said deposit made by the Philippine Alien Property Administrator on October 10, 1947, together with any and all rights to demand, enforce and collcct the same, and

c. Cash in the amount of ₱55 in Philippine Treasury Certificates presently in the custody of the Philippine Office, Office of Alien Property, United States Department of Justice, Manila, The Philippines, together with any and all rights to demand, enforce and collect the same.

is property in the Philippines owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, a designated enemy country (Japan);

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States, in accordance with the provisions of said Trading with the Enemy Act, as amended, and said Philippine Property Act of 1946, as amended.

The term "designated enemy country" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 14, 1952.

For the Attorney General:

[OFFICIAL SEAL] (Signed) HAROLD I. BAYNTON
Assistant Attorney General
Director, Office of Alien Property

I hereby certify that the within is a true and correct copy of the original paper on file in this office.

For the Attorney General:

Harold I. Baynton, Assistant Attorney General
Director, Office of Alien Property

By: LOYOLA M. BLAUTON
Assistant to the Records Officer

Filed with the OFFICIAL GAZETTE on April 2, 1952, at 3:35 p.m.

VESTING ORDER P–848

RE: CLAIM OF PERSONS UNKNOWN

Under the authority of the Trading with the Enemy Act, as amended, (50 U. S. C. App. and Sup. 1—40) ; the Philippine Property Act of 1946, as amended (22 U. S. C. Sup. 1382) ; Executive Order 9193, as amended by Executive Order 9567 (3 CFR, 1943 Cum. Supp.; 3 CFR, 1945 Supp.) ; Executive Order 9788 (3 CFR, 1946 Supp.) ; Executive Order 9818 (3 CFR, 1947 Supp.) ; Executive Order 10254 (16 F. R. 5829, June 19, 1951), and pursuant to law, after investigation, it is hereby found:

1. That the United States Army seized currency and coin in the aggregate amount of $32,492.56 in the Philippines which property was covered into the United States Treasury Department as Miscellaneous Receipt Accounts 213900 and 213897;

2. That the names of the persons who own the aforesaid property are unknown;

3. That the persons who own the property described in subparagraph 4 hereof and who, if individuals, there is reasonable cause to believe, are residents of Japan and, which, if partnerships, corporations, associations or other organizations there is reasonable cause to believe are organized under the laws of Japan and have, or since the effective date of Executive Order 8389, as amended, have had their principal places of business in Japan, are nationals of a designated enemy country (Japan);

4. That the property described as follows:

That certain claim to the sum of $32,492.56 representing Philippine Treasury Certificates and mutilated United States and Philippine Silver coins seized by the United States Army, said sum covered into the United States Treasury Department in Miscellaneous Receipt Accounts numbered as listed below, in the amount set forth opposite each such account:

Miscellaneous receipt account	Amount
213900	$21,537.55
213897	10,955.01

including in particular all rights to demand, enforce and collect such claim (G. A. O. Claim No. 2–5 [155]) under General Regulation 104, Revised April 5, 1951, issued by the Comptroller General of the United States,

is property owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the persons referred to in subparagraph 3 hereof, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

5. That to the extent that the persons referred to in subparagraph 3 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all actions required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, in accordance with the provisions of said Trading with the Enemy Act, as amended, and said Philippine Property Act of 1946, as amended.

Executed at Washington, D. C., on March 14, 1952.

For the Attorney General:

[OFFICIAL SEAL] (Signed) HAROLD I. BAYNTON
Assistant Attorney General
Director, Office of Alien Property

I hereby certify that the within is a true and correct copy of the original paper on file in this office.

For the Attorney General:
Harold I. Baynton, Assistant Attorney General
Director, Office of Alien Property

By: LOYOLA M. BLAUTON
Assistant to the Records Officer

Filed with the OFFICIAL GAZETTE on April 2, 1952, at 3:35 p.m.